

# The residential schools investigation

Phase 1:

Music schools

Residential special schools

Phase 2:

Safeguarding: day and  
boarding schools

Investigation Report

*March 2022*



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**Residential special schools**

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**Safeguarding: day and  
boarding schools**

Investigation Report

*March 2022*

A report of the Inquiry Panel

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Presented to Parliament pursuant to section 26 of the Inquiries Act 2005

Ordered by the House of Commons to be printed 1 March 2022

HC 1131



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## CORRECTION SLIP

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### Corrections:

1. Paragraph 31, pages 135-136

Text currently reads:

**31.** During the 2013 inspection of Chetham’s School of Music, the headteacher, Ms Claire Moreland, initially failed to declare that a member of staff, Wen Zhou Li, had been arrested for non-recent sexual offences against a pupil only two or three weeks before the inspection.<sup>942</sup> The ISI had been given this information by the local authority which was conducting an inspection at the same time and therefore knew to press the headteacher on this point.<sup>943</sup> This illustrates both the extent to which the inspectorates are reliant on headteachers telling the truth and the importance of information-sharing.

Text should read:

**31.** During the 2013 inspection of Chetham’s School of Music, the headteacher, Ms Claire Moreland, initially failed to declare that a member of staff, Wen Zhou Li, had been arrested for non-recent sexual offences against a pupil only two or three weeks before the inspection.<sup>942</sup> The ISI had been given this information by the local authority which was conducting an inspection at the same time and therefore knew to press the headteacher on this point.<sup>943</sup> This illustrates both the extent to which the inspectorates are reliant on headteachers being candid from the outset and the importance of information-sharing.

2. Page 135

Footnote 942 currently reads:

<sup>942</sup> Elizabeth Coley 2 October 2019 95/18-102/13

Footnote 942 should read:

<sup>942</sup> Elizabeth Coley 2 October 2019 95/18-102/13; Claire Moreland 2 October 2019 36/23-37/18

Date of correction: 23 May 2022

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# Executive Summary

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Schools play a central role in the lives of approaching nine million children in England and half a million children in Wales. Most children spend more time at school than in any other single institutional setting outside of their home. Children in residential schools may spend more time in that setting than at home. For some children, their residential school, in effect, may be their home. Schools should be places of learning, where children are nurtured by trusted teachers and flourish in a secure environment.

Schools can and do play an important role in keeping children safe from harm. However, they can also be places where sexual abuse and grooming occur. According to Operation Hydrant, approximately 40 percent of reports of non-recent child sexual abuse involving an institution, organisation or person of public prominence had connections with schools. In recent months the 'Everyone's Invited' initiative has focussed attention on the prevalence of harmful sexual behaviours between school-aged children.

The Inquiry has examined questions concerning the sexual abuse of children in both residential and educational settings in several of its previous investigations, including schools run by religious organisations in its hearings concerning the Anglican and Catholic churches, and in its more general investigation into child protection in religious organisations and settings. Other investigations, including those concerning Lambeth, Rochdale and children in custodial institutions, have also considered such issues.

This investigation has several dimensions. A first phase focussed on residential specialist music schools and residential special schools, where, for different reasons, pupils faced heightened risks of sexual abuse and there had been numerous allegations and convictions. It then examined a variety of other types of schools in which staff had been convicted of the sexual abuse of pupils, or in which serious safeguarding concerns had arisen. Separate to the investigative work undertaken in preparation for the phase one and phase two public hearings, the Chair and Panel asked Counsel to the Inquiry to prepare a written account regarding allegations of child sexual abuse at schools which no longer exist or are under new management. The account was prepared by Counsel using the information gathered from a number of sources in relation to eight schools. It was first published on 30 September 2019 and is republished here: *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools.*

Taken together, the investigative work, the account submitted by Counsel, the research and expert evidence commissioned by the Inquiry has enabled it to explore issues concerning institutional responses to child sexual abuse in a multiplicity of educational settings and contexts.

The instances of the sexual abuse of children presented in this report will shock and horrify. They represent the antithesis of everything that a school should be. For many victims and survivors, the impacts have been profound and lifelong. Some perpetrators have been brought to justice, but many have not. Some of those in positions of authority and responsibility have been held to account for their failures of leadership and governance in varying degrees, but many have not.



In 2013, Michael Brewer, the former director of music at Chetham's School of Music, Manchester, was convicted of sexually abusing a former student when she was 14. His victim took her own life after giving evidence at his trial. This prompted other former pupils to come forward, with 47 alleged perpetrators reported to the police, 35 of whom were connected with the school. Four were charged with criminal offences, including Christopher Ling who had abused eight young girls, often in the guise of 'rewards and punishments' at his home during tutorials, during music courses in school holidays and at the school itself. This first came to light in 1990, shortly after Ling moved to the USA, taking a group of girls with him as pupils. Extradition was not pursued and no further action was taken at the time by the school or by others. It was, as one victim put it, "*as if it hadn't happened*".

Hillside First School was a maintained school for children aged four to eight in Weston-super-Mare. For 15 years from 1995 to 2010, teacher Nigel Leat had his "*favourites*", young girls many of whom were vulnerable in some way. From September 2006, there was evidence that in each school year Leat selected a different girl to sexually abuse, doing so in various locations in the school. Police discovered 454 original videos in which Leat had filmed himself abusing his pupils. He was charged with 36 separate offences, including a count of attempted rape, eight counts of sexual assault by penetration and 23 other counts of sexual assault, all against girls under 13, the youngest of whom was 6. He pleaded guilty to all. A subsequent serious case review revealed that his inappropriate or unprofessional conduct had been noted on over 30 occasions, but few were reported to the designated safeguarding lead (DSL), even fewer were officially recorded and no effective action had been taken in respect of them.

In 1998, Malcolm Stride was head of care at Stony Dean, a residential special school in Buckinghamshire, when he was arrested and subsequently convicted for sexual offences committed at another school in North Yorkshire between 1976 and 1984. His successor as head of care was Anthony Bulley, who in 2005 pleaded guilty to six offences of rape and sexual assault against four boys aged 11 to 14 at the school. As a result of his guilty plea, other charges were not proceeded with – but one victim believes he was raped and sexually assaulted by Bulley over 20 times when he was between the ages of 11 and 13.

Clifton College is an independent boarding school in Bristol, offering a range of educational provision, from nursery to sixth form. In 2008, a former teacher, Stephen Johnston, was convicted of buggery and indecent assault of a pupil over a three-year period in the early 1990s. He had invited the boy to his flat to drink and watch pornographic videos. When other staff had complained of teenage boys going into the flat, the headteacher responded that "*what happens in a private house which is not part of the School is nothing to do with me as Headmaster*". Between 1998 and 2014, what the respected housemaster Jonathan Thomson-Glover did in both his private house and in a boy's day house at the school was to hide cameras – including in the showers, toilets and bathrooms – to film 2,500 hours of videos of boys undressing, showering, using the toilet and engaging in sexual acts. After Thomson-Glover's arrest in 2014, other acts of indecency emerged, involving masturbation with boys at the school where Thomson-Glover taught previously.

At the Purcell School, a specialist music school, allegations against staff were not responded to appropriately under the headship of Mr Peter Crook. This is unsurprising, as the headteacher demonstrated a failure to understand some basic principles of safeguarding. For example, in 2009 Mr Crook took a group of Year 9 boys to his home, discussed his own

sexual experiences with them, told the boys how to measure their penises and told them he would ignore it if he caught two boys masturbating each other. When this came to light, it was decided that no disciplinary measures were to be imposed on the headteacher.

Teachers and others exploited their positions of trust to abuse children in all the various types of educational settings the Inquiry considered. Some settings pose heightened risks. Boarding schools were described to us as “*the ideal environment for grooming*”, as the children have an increased dependency on those around them.

Children with disabilities are three times more likely to experience sexual abuse than other children. Yet there have been relatively few convictions in respect of children sexually abused in residential special schools, who face particular difficulties when seeking to disclose their abuse to others and in providing evidence to those seeking to investigate.

In the specialist music schools examined, the power and influence of often revered and influential music teachers made some pupils even more vulnerable to being sexually abused by them. The reputations of both the musicians and the schools were often seen as more important than their victims and potential victims when allegations were made or concerns were raised. The response was similar when concerns were raised about well-liked and generally respected members of staff in other school contexts, in both the independent and state sectors.

This Inquiry report includes many deeply distressing cases of egregious abuse, the signs of which went unnoticed or were not responded to in an appropriate or professional manner. The imperative of doing much more to make schools places where children can be free from the threat and the fear of sexual abuse is obvious.

The report identifies many shortcomings and failings in current systems of protection, regulation and oversight which need to be addressed and it makes recommendations to help remedy them. The report also highlights more systemic questions concerning the efficacy of those current systems which will be returned to in the Final Report of this Inquiry.

Regulation of education in England and in Wales is complex, there being a multiplicity of types of provision and providers, and systems of inspection and oversight. Since the early 1990s, there has been a plethora of statutory and non-statutory guidance concerning how to keep children safe in education which has changed greatly over time. That guidance is not always fully understood or adhered to, in part because it is not sufficiently precise and clear.

Some staff remain reluctant to report concerns, in part fearful of the consequences of doing so. The consequences of their not doing so are, however, rarely given equal weight. When concerns are raised or allegations made, they are not always referred to statutory authorities when they should be nor is advice always sought on whether to do so. The willingness in England and Wales of local authority designated officers (LADOs) to give such advice also varies.

Where concerns do not meet the threshold for formal referral, there can then be confusion regarding what, if any, further steps should be taken, and by whom. These uncertainties and hesitations are magnified in cases concerning harmful sexual behaviour between pupils. As a result, it remains all too easy for pupils to continue to be sexually abused by adults and for harmful sexual behaviour between pupils to remain unchallenged and unaddressed.

Leadership matters. In many of the schools examined in which children were sexually abused, governance or leadership in respect of safeguarding was poor. Proprietors and governors of schools need to be fit and proper persons to undertake such roles, yet they are not currently eligible to be checked against the list of persons barred from working with children. Governing bodies need to have members with the knowledge and skills necessary to exercise proper strategic oversight of safeguarding and child protection.

Headteachers need to ensure that there is a positive culture of safeguarding in their schools and be aware of the heightened vulnerability of children to sexual abuse in specific educational settings. Too often, however, the Inquiry saw examples of headteachers who found it inconceivable that staff might abuse their positions of authority to sexually abuse children, were unaware of current statutory guidance or did not understand their role in responding to allegations against staff. Some were more focussed upon protecting the reputation of the school than protecting the interests of the children.

Checking the suitability of those in schools to work with children is a key element of the protective framework. During this investigation the Inquiry encountered examples of Disclosure and Barring Service (DBS) checks not being carried out, or not being carried out in advance of employment commencing, as well as failures to refer cases of concern to the DBS and local authorities.

There is also an increasing number of volunteers who work with children in schools. Those who are supervised are not eligible to be checked against the list of persons barred from working with children because they are not considered to be engaged in regulated activity. Moreover, while they are eligible for an enhanced DBS certificate, this is not compulsory, despite these volunteers often appearing to children as being in a position of authority akin to that of a position of trust.

There are similar weaknesses in the system for teacher regulation. It is not as clear as it should be that gross incompetence in safeguarding practice amounts to serious misconduct for the purposes of the Teaching Regulation Agency (TRA). In addition, most of those engaged in learning support roles within schools are not subject to the jurisdiction of the TRA and so currently fall outside the scope of workforce regulation. In Wales, there is the further anomaly that teachers and learning support staff in independent schools do not need to be registered with the Education Workforce Council.

Inspection is another key component of the framework for keeping children safe at school, although it is the responsibility of the school, not the inspectorates, to ensure that its safeguarding is effective. The inspectoral frameworks for schools in England and Wales are complex, with Estyn in Wales and the Office for Standards in Education, Children's Services and Skills (Ofsted) and the Independent Schools Inspectorate (ISI) in England inspecting against their own, sometimes differing, frameworks. In Wales, the national minimum standards for boarding and residential special schools have not been updated since 2003.

There are numerous examples of positive inspection reports predating the emergence of serious safeguarding concerns, and which are then followed by less positive inspection reports. Whilst these may be explicable due to changed inspection standards and frameworks, viewed holistically the current inspection arrangements in respect of safeguarding in schools are complex and confusing.

Effective inspection can also be hampered by staff being parsimonious with the information they provide to inspectors regarding safeguarding matters, and by the Department for Education, inspectorates and other agencies not sharing relevant information with each other.

There are also weaknesses in systems of enforcement in respect of schools which fail to meet requisite standards, including safeguarding. In England and Wales, the range of tools available is limited, particularly in relation to independent schools.

The Charity Commission has powers to intervene in schools that are registered charities, but this has not been a particularly effective mechanism for ensuring compliance with safeguarding standards across the charitable educational sector as a whole.

Despite 20 years of enhanced focus on safeguarding, schools are not as safe for children as they should be, and children's interests do not always come first when allegations or concerns of sexual abuse arise. This must change.

# Pen portraits

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## RS-A2

RS-A2 was a boarder at Chetham's School of Music (Chetham's) in Manchester in the 1980s, from the ages of 13 to 18.<sup>1</sup> She was far from home and found the atmosphere in the school to be "oppressive" and very competitive.<sup>2</sup> She felt that there were no staff members who were approachable.

Christopher Ling became RS-A2's violin tutor at Chetham's when she was 15. RS-A2 said that she saw Ling as a father figure, and that he had convinced his students that he was their only chance of success. RS-A2 noticed that Ling frequently commented on the appearance of his female pupils, and he sometimes gave RS-A2 a shoulder massage for pain she developed from over-practising.

When RS-A2 attended a holiday course at Ling's house when she was 15, Ling told her that he was going to punish her for making a mistake during a lesson. He then pulled down her underwear, spanked her on the bottom, then made her lie down on the bed while he rubbed his penis on her back and ejaculated over her. Ling told her afterwards that she must not tell anyone because it was a secret and a special thing between them. Ling abused RS-A2 on a subsequent occasion in the coffee room at Chetham's, when he pushed her against a wall and forcefully fondled her breasts through her blouse.

When Ling's abuse of pupils at Chetham's came to light in December 1990, RS-A2 was interviewed by Greater Manchester Police in the presence of the housemistress, Mrs Anne Rhind. Although the female police officer who interviewed her was "kind",<sup>3</sup> RS-A2 had the impression that Mrs Rhind was worried about the impact on the school and that she was angry with RS-A2.

After RS-A2 disclosed the abuse at school, she spoke to her mother about it on the telephone. RS-A2 said that she later discovered that her mother tried to contact her at Chetham's, but Mrs Rhind would not let her speak to or see RS-A2, saying that she was busy. RS-A2 said that she had not known at the time that her mother had tried to see her because Mrs Rhind did not tell RS-A2 that her mother had come to the school.<sup>4</sup>

Some time after she was interviewed, RS-A2 recalled being told by the police that the case would not proceed due to a lack of evidence. Neither the police nor the school offered any counselling or support.<sup>5</sup>

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<sup>1</sup> RS-A2 1 October 2019 1/8-32/19

<sup>2</sup> RS-A2 1 October 2019 3/7

<sup>3</sup> RS-A2 1 October 2019 22/23

<sup>4</sup> RS-A2 1 October 2019 28/2-15

<sup>5</sup> RS-A2 1 October 2019 29/10-19, 23/20-24/22

RS-A2 was allocated a new violin teacher at Chetham's who also made sexual allusions in lessons and forcefully kissed her, but RS-A2 did not report it. She did not think she would be listened to:

*"if the other abuse hadn't been listened to, then why would this?"<sup>6</sup>*

RS-A2 provided another statement to the police in 2013, when the case against Ling was reopened. Ling shot himself in the head when US marshals arrived at his home to serve extradition papers upon him in September 2015. When she heard of Ling's suicide, RS-A2 felt that again the voices of his victims had not been heard. She felt shocked and angry, and described his suicide as *"a final kick in the teeth"*.<sup>7</sup>

The sexual abuse has continued to affect RS-A2 emotionally and physically, causing problems with trust and self-esteem, and has affected her relationships with men. RS-A2 has not played classical music since leaving Chetham's and finds it difficult to listen to it.

## RS-A3

RS-A3 began private violin tuition with Christopher Ling at his house in Reading in the 1980s, when she was 10 years old. RS-A3's mother took her to the lessons and would wait outside in the car or at a cafe. Ling first sexually abused RS-A3 in a lesson when she was aged between 10 and 12, making her strip naked and touching her breasts and vagina, and making her rub his testicles whilst he masturbated himself. The abuse then occurred every time she went to his house for tuition. RS-A3 did not know what sexual abuse was at this age – Ling presented it as punishment for making mistakes in lessons. Ling threatened to kill himself if she told anyone.

RS-A3 joined Chetham's when she was 15 years old, living at the school as a boarder. Ling was her instrumental teacher and RS-A3 said that she looked up to him as an inspiring teacher. He continued to sexually abuse her, not on school premises but at his private residence, during additional lessons or tuition courses at weekends and in the school holidays.

On one occasion, when she was 15 or 16, Ling took RS-A3 away from the school for a weekend. He took her in his car to his house in Reading on a Friday in term time, telling her she needed to be punished. During the weekend, Ling made RS-A3 wear clothes and underwear that he had bought for her. RS-A3 was very frightened by Ling's demeanour and believed he intended to rape her. After RS-A3 refused to submit to sexual intercourse, Ling took her to the train station the next day, leaving her to make her own way back to Chetham's.

In autumn 1990, during a self-awareness course, RS-A3 disclosed that she had been sexually abused by Ling. Her parents were informed and reported him to the police. By this time, Ling was teaching in the United States and RS-A3 was in the sixth form at Chetham's. Greater Manchester Police interviewed RS-A3 and several other girls at the school, although RS-A3 recalled being told by the police subsequently that there was not enough evidence to extradite Ling to face trial in England.

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<sup>6</sup> RS-A2 1 October 2019 27/22-23

<sup>7</sup> INQ004511\_004

In 2013, the police reopened the case against Ling. RS-A3 was interviewed again by the police because the evidence gathered in 1990 had been lost. Extradition proceedings were initiated to bring Ling back from the United States to face trial in England, but Ling killed himself before he could be extradited.

When RS-A3 heard of his suicide, she felt a sense of relief but also was disappointed that Ling had never faced justice for his actions:

*"I wanted it confirmed that we were telling the truth and I have missed out on the recognition of what we had gone through. I am especially angry that the school will never be held accountable".<sup>8</sup>*

The abuse continues to affect RS-A3. She struggles to show her feelings and feels numb and disconnected. She gave up playing the violin as it triggered uncomfortable emotions.

## RS-A6

RS-A6's early life was characterised by familial abuse and neglect, and he was excluded from a number of schools.<sup>9</sup>

In the early 2000s, when he was aged between 6 and 10, RS-A6 was a pupil at Appletree School, Cumbria (a specialist therapeutic care centre for children who have been abused or neglected) and a resident in an associated children's home. In November 2006, when he was 9 years old, RS-A6 absconded from school with two older pupils – RS-C1 who was 12 years old and RS-C3 who was 11. RS-A6 later told the police that RS-C1 *"pulled down his pants and put his willy inside his bottom, not just between the cheeks but in the hole"*.<sup>10</sup> In the same incident, RS-C3 inserted his penis into RS-C1's bottom. RS-A6 told RS-C1 to stop and get off but he did not until RS-A6 said it was hurting and managed to run away.<sup>11</sup>

The abuse came to light a couple of weeks later when RS-C4 (a friend of RS-A6) accused RS-C1 of having sex with RS-A6, and a member of staff overheard them talking. RS-A6 was later interviewed by Cumbria Constabulary but no action was taken due to a number of factors, including the boys' conflicting accounts and their *"damaged backgrounds"*.<sup>12</sup>

In 2007, RS-A6 described to his foster parent that he had been repeatedly sexually abused, *"maybe a 100 times"*, by RS-C1 and other pupils while he had been at the school.<sup>13</sup>

RS-A6 said that he did not feel able to tell school staff because *"all the staff knew each other"*.<sup>14</sup> He said that he thought he would not be believed because:

*"essentially, from the day you're brought in there, you're essentially – you are the problem, you are the problem child. So anything that comes out your mouth is rubbish."*<sup>15</sup>

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<sup>8</sup> INQ004515\_011

<sup>9</sup> RS-A6 7 October 2019 119/17-148/25

<sup>10</sup> RS-A6 7 October 2019 137/23-25

<sup>11</sup> RS-A6 7 October 2019 137/19-138/9

<sup>12</sup> RS-A6 7 October 2019 142/3-6

<sup>13</sup> CCC000009\_027

<sup>14</sup> RS-A6 7 October 2019 128/5-6

<sup>15</sup> RS-A6 7 October 2019 128/10-13



## RS-A345

Jonathan Thomson-Glover was convicted in 2015 of a number of offences relating to the covert filming of pupils at Clifton College (an independent residential school in Bristol where he was the housemaster of a day house) and at his holiday cottage. RS-A345 was one of a number of former pupils who were secretly filmed by Thomson-Glover.<sup>16</sup>

In 2010, aged 10, RS-A345 joined the preparatory school at Clifton College. In Year 9 he chose to join 'House 1', a popular day house run by Thomson-Glover. RS-A345 said that the housemaster was an important figure in the lives of pupils, with a pastoral role and the power to influence a student's progress or success at the school. RS-A345's relationship with Thomson-Glover was "very friendly and almost familial".<sup>17</sup>

In 2014, RS-A345 and around 10 other boys went on a residential trip to Cornwall organised and led by Thomson-Glover. Half the group stayed in Thomson-Glover's personal holiday home and half stayed in a barn nearby with another teacher. During the trip, Thomson-Glover filmed RS-A345 and the other boys using cameras hidden in the bathroom of his holiday home. The covert footage of RS-A345 showed him engaging in private acts such as showering, using the toilet and masturbating.

Two or three months after the trip to Cornwall, RS-A345 became aware that Thomson-Glover had resigned from the school. Clifton College told the boys in House 1 that he had resigned for personal reasons, but RS-A345 heard rumours that Thomson-Glover had been arrested and read news stories about it.<sup>18</sup> He saw stills of the footage from the bathroom reproduced in the press, which he found very difficult.<sup>19</sup>

The police made contact with RS-A345 and gave him the option of identifying himself on video footage seized from Thomson-Glover's address. RS-A345 told us:

*"that moment of identifying myself was the most traumatic moment of the whole process ... I felt completely shocked, horrified, embarrassed and sort of ashamed".<sup>20</sup>*

RS-A345 felt that he had been manipulated by Thomson-Glover, and he said that:

*"The school's approach was very much, 'Don't talk about it. Sweep it under the carpet. It's embarrassing to talk about'".<sup>21</sup>*

He worried that he might get in trouble if he spoke about it. Other Clifton College pupils joked about Thomson-Glover's offending and teased the House 1 boys about it.

RS-A345 became depressed and, at one point, suicidal. He put on weight and became very self-conscious, and lost interest in doing sport at school. RS-A345 said that no one at the school picked up on these signs. He stated that he continues to have issues with poor self-esteem and a lack of confidence, which he has only recently connected to his experience of sexual abuse by Thomson-Glover.

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<sup>16</sup> RS-A345 17 November 2020 1/11-38/8

<sup>17</sup> RS-A345 17 November 2020 14/6-7

<sup>18</sup> RS-A345 17 November 2020 20/17-21/4

<sup>19</sup> RS-A345 17 November 2020 22/9-19

<sup>20</sup> RS-A345 17 November 2020 22/3-13

<sup>21</sup> RS-A345 17 November 2020 26/10-12



## RS-A299

In the 2008/09 school year, when RS-A299 was under nine years old, she was sexually abused by Nigel Leat, her teacher at Hillside First School, a local authority maintained infant school in North Somerset.<sup>22</sup> She told the Inquiry that she and her friend (RS-A346) had been amongst a group of Leat's "favourites", selected for special attention.<sup>23</sup>

She said "*things became weird*" after the first couple of weeks in Leat's class.<sup>24</sup> Leat moved her and RS-A346's seats closer to his desk. He also kept the girls in the classroom when other children went to the bathroom to get dressed for PE and watched them get dressed. RS-A299 said that she and her friend knew that he was taking photographs of them, even though he tried to hide it. He also put his hand on their knees. Leat told RS-A299 that nobody would believe her if she told them what was happening. Leat threatened her, belittled her and bribed her with gifts so that she did not tell anyone.<sup>25</sup>

During piano lessons, Leat sat RS-A299 on his lap, often with his arms wrapped around her and his groin pushed up against her. She recalled how uncomfortable she had been and how much she had wanted to get away:

*"it was horrendous because there is nothing like being stuck in a position where you know - or you're definitely starting to come to an understanding that, 'This isn't okay, I shouldn't be here, I don't like this feeling'."*<sup>26</sup>

She said that Leat had also sexually assaulted pupils behind the piano because nobody could see what was happening there.<sup>27</sup> She described an incident when Leat pushed RS-A346 against a bookcase and tried to kiss her, and RS-A346 had been sick. RS-A299 told the headteacher, Mr Christopher Hood, that "*something had happened*" between Leat and RS-A346, but he did not ask for any further details.<sup>28</sup>

RS-A299 and RS-A346 wanted to tell a teaching assistant about what was happening but were unable to because they "*didn't have the words, we didn't understand what it was that we were even going to say*".<sup>29</sup>

When RS-A299 was 10 years old, Leat was arrested. She was interviewed by Avon and Somerset Police and had a medical examination.<sup>30</sup> She felt that, because she was so young, she did not appear to have been affected outwardly, but she was affected in many ways psychologically. RS-A299 said that she did not think she needed therapy at the time because she did not think anything needed fixing.<sup>31</sup>

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<sup>22</sup> RS-A299 20 November 2020 1/21-33/6

<sup>23</sup> RS-A299 20 November 2020 5/21-8/20

<sup>24</sup> RS-A299 20 November 2020 4/7

<sup>25</sup> RS-A299 20 November 2020 9/25-10/17

<sup>26</sup> RS-A299 20 November 2020 13/21-25

<sup>27</sup> RS-A299 20 November 2020 10/23-11/14

<sup>28</sup> RS-A299 20 November 2020 16/15

<sup>29</sup> RS-A299 20 November 2020 20/18-19

<sup>30</sup> RS-A299 20 November 2020 22/21-25

<sup>31</sup> RS-A299 20 November 2020 25/11-27/25

RS-A299 was shocked that the adults in the school had not taken action:

*“Some reports were made and dismissed; others were ignored; others just didn’t have any follow-up on them. I just believe that, although people should have had the common sense, there also wasn’t a duty to them or any repercussions if they didn’t”.<sup>32</sup>*

She said that it was too late for an apology and that the first time she had heard any sort of apology was as part of the Inquiry.<sup>33</sup> She changed as a person because of the abuse, becoming secretive, losing weight and becoming isolated from her family. When she was aged 14 or 15, she began to have panic attacks, flashbacks, anxiety and signs of post traumatic stress disorder. At this point, she had therapy, which she said helped. She also told us:

*“I want to somehow represent people that didn’t have a voice, that weren’t considered and that – we are the past, it happens in the future, but I want to protect the people that it potentially could happen to in the future.”<sup>34</sup>*

## RS-A300 and RS-A320

RS-A300 and RS-A320 were both under nine years old when they were sexually abused by their primary school teacher, Nigel Leat, at Hillside First School between 2007 and 2010.<sup>35</sup> Their mothers, RS-H1 and RS-H2, told the Inquiry about their daughters’ experiences.

RS-H1 was increasingly concerned about her daughter, RS-A300, after she joined Leat’s class in 2010. RS-A300 became withdrawn and did not want to wear skirts to school. Her sleeping and eating patterns had changed and she had not wanted to have a bath or change her underwear. She seemed like her normal self during the autumn half-term holiday, but became quiet and withdrawn again once she returned to school.

At the end of the autumn term, RS-A300 told her mum that Leat had bought her a present but that it was a secret. RS-H1 was worried about this and the change in her daughter, and decided to talk to her about Leat. RS-H1 asked her daughter if anything was worrying her. RS-A300 said no. She then asked RS-A300 if Leat had *“been ... touching her”* and RS-A300 said he had.<sup>36</sup> This prompted a major police investigation, during which RS-A300 described Leat rubbing her vagina, touching her and kissing her several times a day in the classroom. She told the police that she did not like what was happening but did not want to be *“horrible”* to him.<sup>37</sup>

RS-A320 was sexually abused by Leat in the 2007/08 school year. Looking back, her mother, RS-H2, said both she and her daughter had been *“groomed”* by Leat.<sup>38</sup> He *“went out of his way”* to help her daughter, who had learning difficulties and suspected autism.<sup>39</sup> He told RS-H2 how much RS-A320 reminded him of his own daughter and how much progress RS-A320 was making academically. RS-H2 said that these references to his daughter and also to his family allayed any concerns she had about how tactile Leat was with her daughter, adding that Leat was affectionate and tactile with children in plain sight.

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<sup>32</sup> RS-A299 20 November 2020 30/13-17

<sup>33</sup> RS-A299 20 November 2020 31/20-21

<sup>34</sup> RS-A299 20 November 2020 32/17-21

<sup>35</sup> RS-H1 20 November 2020 72/17-99/24; RS-H2 20 November 2020 33/17-72/7

<sup>36</sup> RS-H2 20 November 2020 80/2

<sup>37</sup> RS-H2 20 November 2020 86/3

<sup>38</sup> RS-H2 20 November 2020 38/23

<sup>39</sup> RS-H2 20 November 2020 41/8-10

In May 2011, Leat pleaded guilty to 36 sexual offences against six young girls, including the attempted rape of RS-A320 and several counts of penetration of a child under 13. He was imprisoned for an indefinite period.

Although support was available from the local authority, North Somerset Council, in the immediate aftermath of Leat's arrest, RS-H1 considered that it was not sufficiently long term. RS-A300 was under nine years old when she was abused, and her mother considered that she needed ongoing support later in her life as she began to understand what had happened to her.<sup>40</sup>

## RS-A7

When RS-A7 was a child, he was seen as naughty, destructive and attention-seeking, with behavioural difficulties. When he was 16 years old, he was diagnosed with attention deficit hyperactivity disorder (ADHD) and then, as an adult, with autism.<sup>41</sup>

In around 2000, he was sent to Stony Dean School in Amersham, then a day and residential special school for children with moderate learning difficulties and speech or communication difficulties including autism, maintained by Buckinghamshire County Council. RS-A7 was 10 or 11 years old when he joined in Year 7. Anthony Bulley was the head of care at the school.

RS-A7 described how, one night during Year 7, he was feeling unwell and went to tell Bulley. Bulley asked RS-A7 to go to his room and share his bed. RS-A7 said no. Bulley then said that RS-A7 could sit on the sofa in his room. RS-A7 went to Bulley's room where Bulley threw him on the bed, took off his pyjama bottoms, masturbated him and performed oral sex on him. RS-A7's hands were pinned down so he could not move. The assault ended because RS-A7 was banging his head on the floor and there was a noise downstairs, so RS-A7 thought that Bulley might be scared he was going to get caught.

RS-A7 said that he was taken into Bulley's room and raped on at least 20 occasions over a 2-year period between the ages of 11 and 13.

RS-A7 was only able to tell the police about three incidents when he was interviewed at the time of Bulley's arrest in 2004. He did not feel able to tell the police about the extent of the abuse because his father could hear everything he was telling the police and he was ashamed and embarrassed. Bulley pleaded guilty to a charge of indecent assault against RS-A7; as a result, the prosecution agreed to leave a charge of rape of RS-A7, which was denied, to lie on the file. This means that those charges will not be proceeded with unless a Crown Court judge or the Court of Appeal gives permission to do so, but the proceedings have not formally ended because no verdict is recorded.

RS-A7 was disappointed in the support he received from Buckinghamshire County Council. He was offered group counselling when he was 16 years old. He described these sessions as:

*"absolutely useless. There was no way I was going to talk about my sexual abuse in a group counselling session full of other boys. None of us really said anything. It was no benefit at all and, if anything, just made me feel worse, because it was embarrassing to have to go and sit with other boys and wonder if they had been abused as well. It just confused me even more and left me feeling more angry and upset."<sup>42</sup>*

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<sup>40</sup> RS-H1 20 November 2020 96/15-97/12

<sup>41</sup> RS-A7 9 October 2019 53/1-79/20

<sup>42</sup> RS-A7 9 October 2019 75/4-12

Part A

# Introduction

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# Introduction

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## A.1: Background to the investigation

1. Most child sexual abuse encountered by schools occurs outside the school setting, often at home or in the community. School staff frequently play a valuable role in spotting signs of potential abuse and in enabling children to report their experiences. But schools can also be places where sexual abuse and grooming occur.

2. It is not possible to obtain accurate data regarding the prevalence of child sexual abuse connected with schools, or the number of complaints or convictions relating to sexual abuse in schools. Neither the police nor the Ministry of Justice record information relating to whether sexual offences are connected with schools. However, as at September 2021, almost 42 percent of reports of child sexual abuse made to Operation Hydrant (the police coordination hub for non-recent child abuse investigations concerning persons of public prominence or abuse in institutional settings) were said to have been connected with an educational institution.<sup>43</sup>

3. In this investigation, the Inquiry heard evidence about incidents of child sexual abuse, harmful sexual behaviour between children and other safeguarding concerns which arose at 12 schools in England, in order to understand the effectiveness of the framework for safeguarding children in schools. Institutional responses to safeguarding issues which arose at a boarding school in North Wales were also examined, as well as information about eight schools which are no longer operating.

4. Harmful sexual behaviour between children was not the primary focus of this investigation, although institutional responses to incidents between pupils in two residential special schools were considered. Evidence was gathered on how the Department for Education, the Welsh Government and the bodies that inspect schools tackle the issue. In June 2020, a website, Everyone's Invited, was launched with the stated aim "to expose and eradicate rape culture".<sup>44</sup> The site began to attract significantly more attention in March 2021, and by the end of June 2021 it had collected over 51,000 testimonies.<sup>45</sup> The testimonies named 2,569 schools in England and 93 schools in Wales in connection with sexual assault, sexual harassment and harmful sexual behaviour between children. Following press coverage of the website, at the request of the Department for Education, the Office for Standards in Education, Children's Services and Skills (Ofsted) undertook a rapid review of sexual abuse in schools.<sup>46</sup> Ofsted visited 32 schools and colleges and spoke with over 900 children and young people about the prevalence of peer-on-peer sexual harassment and sexual violence, including online, in their lives, and in the lives of their peers. In June 2021, Ofsted published a *Review of sexual abuse in schools and colleges*.<sup>47</sup> This concluded that sexual harassment and online sexual abuse are "much more prevalent than adults realise", and that for some children

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<sup>43</sup> INQ006604\_003

<sup>44</sup> INQ006513

<sup>45</sup> INQ006513

<sup>46</sup> INQ006505

<sup>47</sup> INQ006509

the incidents are “so commonplace that they see no point reporting them”.<sup>48</sup> A September 2016 report from the House of Commons’ Women and Equalities Select Committee, *Sexual harassment and sexual violence in schools*, described sexual harassment and sexual violence in schools as a “significant issue which affects a large number of children and young people, particularly girls”.<sup>49</sup> In December 2021, Estyn published a report – “We don’t tell our teachers” – considering harmful sexual behaviour between secondary school pupils in Welsh schools.<sup>50</sup> This report identified a high level of peer-on-peer sexual harassment with around half of pupils saying that they had personal experience of such abuse (for girls the percentage was 61 percent).<sup>51</sup> Estyn concluded that generally pupils do not tell teachers about their experiences of sexual harassment because it has become “normalised”.<sup>52</sup>

## A.2: Scope of the investigation

5. As set out in the investigation’s definition of scope, this investigation examined the nature and extent of incidents of child sexual abuse in residential schools, and the responses to those allegations by the schools and other organisations.<sup>53</sup> The themes considered included governance and management of schools, inspection and monitoring, training and recruitment of staff, whistleblowing and reporting, school culture, and good safeguarding practice.<sup>54</sup>

6. In the course of reviewing material provided to the Inquiry, a number of themes and issues were identified which applied equally to day schools (schools with no residential facilities for pupils, who return to their homes at the end of each school day). As a result, the investigation was widened to consider institutional responses to allegations of child sexual abuse in some day schools.

7. The investigation was divided into two phases, both of which are dealt with in this report:

- **Phase 1** (hearings: September/October 2019) considered two types of residential school: **residential specialist music schools** and **residential special schools** (for children with special educational needs). These schools were selected because pupils faced heightened risks of child sexual abuse in these settings. Allegations of child sexual abuse have been made at all four specialist music schools in England, and five former members of staff have been convicted or cautioned for sexual offences at three of the schools. The Inquiry also heard evidence about safeguarding concerns or allegations of child sexual abuse at five residential special schools. The barriers for children with special educational needs and disabilities reporting sexual abuse are such that there are few convictions within this sector. For this reason, the five special schools were selected in order to provide a geographical spread and a range of special educational needs and disabilities. The Inquiry also sought evidence from these special schools of good practice in safeguarding children with special educational needs and disabilities.
- **Phase 2** (hearings: November 2020) considered three **mainstream schools** (explained below) where staff have been convicted of sexual abuse of pupils – one state school for children aged 4 to 8, one state secondary school for children aged 11 to 18, and one independent **boarding school** (a mainstream school where all or some of the pupils

<sup>48</sup> INQ006504\_001-002

<sup>49</sup> INQ006511

<sup>50</sup> INQ006611

<sup>51</sup> INQ006611\_007

<sup>52</sup> INQ006611\_008

<sup>53</sup> *An inquiry into the sexual abuse and exploitation of children in residential schools: Scope of investigation*

<sup>54</sup> *Residential schools investigation: Update note*, October 2018

reside overnight during term time) for children aged 2 to 19. Schools were selected in order to enable the investigation to consider both state and independent schools, primary education, secondary education and boarding. Evidence was also considered relating to a boarding school in Wales, where safeguarding issues arose in 2019 which led to the dismissal of the headteacher in February 2020. While the school was not the subject of a full examination by the Inquiry, the issues raised were used to explore the responses of the institutions in Wales to safeguarding concerns.<sup>55</sup>

- 8.** The allegations of child sexual abuse and safeguarding concerns considered in both Phases 1 and 2 were largely reported and investigated or responded to between 1990 and 2017, and related to incidents alleged to have taken place from the 1960s to 2014.
- 9.** The Inquiry also gathered information relating to sexual abuse which took place between the 1950s and the early 1990s within eight schools which have closed or are under new management. The information was brought together and presented by Counsel in their document *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools* (the closed residential schools account submitted by Counsel).<sup>56</sup> Four of these schools were fee-paying preparatory schools (Ashdown House, Sherborne Preparatory School and St George's School, which became Dalesdown School), three were schools for children described as "unruly" or "maladjusted" (Sheringham Court School, which became Thurlby Manor School, and Feversham School), and one was an 'approved school' and later a 'community home with education' (St William's School). From 1933 to 1969, approved schools were a type of residential institution to which children could be sent by a court, usually for having committed a criminal offence, but also if they were deemed to be beyond parental control.<sup>57</sup> A number of schools referred to the Inquiry had ceased to operate and from these, Counsel focussed on eight schools which provided a snapshot of non-recent child sexual abuse in residential schools which were no longer open or are under new management. It is not suggested that the closed residential schools account submitted by Counsel is truly comprehensive or representative of all such schools.<sup>58</sup>
- 10.** The Inquiry was not able to obtain detailed information about the institutional responses to the child sexual abuse which took place in these schools for a number of reasons, including a lack of documentation resulting from the passage of time and the closure of the schools. Information and extracts from Counsel's closed residential schools account are referred to in relevant sections of this report. The complaints of sexual abuse recounted in Counsel's account took place when most of the current system for safeguarding children in schools did not exist.
- 11.** Despite numerous changes and improvements to safeguarding since the complaints of child sexual abuse referenced in the closed residential schools account, children continue to face sexual abuse and sexual harassment in schools. The Inquiry heard evidence about

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<sup>55</sup> The disciplinary issues in relation to the school only concluded in February 2020. The investigation's Phase 2 hearings were, at that point, scheduled for May 2020. Therefore, a more limited approach was taken which focussed on institutional responses.

<sup>56</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*

<sup>57</sup> The Children and Young Persons Act 1969 replaced approved schools with community homes.

<sup>58</sup> The detailed methodology is set out in Annex 1; *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p70



ineffective safeguarding in schools during the past 20 years and the testimonies on the Everyone's Invited website demonstrate that currently, for children in some schools, sexual abuse and harassment between peers remain endemic.

**12.** The purpose of this investigation was to explore institutional responses to child sexual abuse in schools and to examine the current safeguarding framework to identify weaknesses or inadequacies, in order to make recommendations to improve the system for safeguarding children in schools.

**13.** The Inquiry has previously considered educational settings in a number of its other investigations, including schools run by the English Benedictine Congregation linked to its abbeys at Ampleforth, Downside and Ealing, and unregistered schools in the Child Protection in Religious Organisations and Settings investigation.<sup>59</sup>

### A.3: Education in England and Wales

**14.** The majority of children in England and Wales attend school, with fewer than 1 percent of children being home schooled.<sup>60</sup>

**14.1.** In February 2021, there were around nine million pupils in schools in England.<sup>61</sup> The English school system has a number of different stages. Primary education ranges from ages 4 to 11, with some form of education compulsory from the term following a child's fifth birthday.<sup>62</sup> Secondary education is for children aged 11 to 16 or 18 years old, with some form of education or training being compulsory for all young people in England until the age of 18.<sup>63</sup>

**14.2.** Based on figures from 2020 and 2021, there were approximately 475,000 pupils in Wales.<sup>64</sup> Children aged 3 to 7 follow a foundation stage curriculum but school is only compulsory from the term after their fifth birthday. Primary education is from 5 to 11 years old, with secondary education compulsory from 11 to 16 years old and voluntary from 16 to 18. There is no requirement for young people in Wales to be in education or training between the ages of 16 and 18.

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<sup>59</sup> *Ampleforth and Downside (English Benedictine Congregation case study) Investigation Report* (published August 2018); *The Roman Catholic Church: Ealing Abbey and St Benedict's School Investigation Report* (published October 2019); *Child protection in religious organisations and settings Investigation Report* (published September 2021).

<sup>60</sup> In March 2019, local authorities reported 60,544 children in England as being home schooled (INQ006507\_035 para 94). In Wales, 2,517 children were home schooled in the academic year 2018/19 (INQ006508\_014) – this figure will be an underestimate because parents are not required to register their children as being home schooled.

<sup>61</sup> INQ006503\_002

<sup>62</sup> Section 8 of the Education Act 1996

<sup>63</sup> Section 2 of the Education and Skills Act 2008

<sup>64</sup> WGT000489\_002



	England (2020/21 academic year) <sup>a</sup>	Wales (2020/21 academic year) <sup>b</sup>
Number of schools (state and independent)	24,413	1,553
Number of children aged 3 to 18 in school (total)	8,832,948	475,181
Number of independent schools	2,366	79
Number of pupils in independent schools	569,332	9,698
Number of special schools (state and independent)	1,629	77
Number of pupils in special schools (state and independent)	157,068	5,216
Number of residential special schools (state and independent)	229	23
Number of residential special school pupils (state and independent)	12,478 <sup>c</sup> 14,800 <sup>d</sup>	931
Number of schools offering boarding (state and independent)	707	27
Total number of pupils who board (state and independent)	63,925	1,756

<sup>a</sup> DFE003478; <sup>b</sup> All figures provided by the Welsh Government: WGT000489\_001-002; <sup>c</sup> Number of pupils in schools that had some pupils recorded as boarders in January 2021 school census; <sup>d</sup> Number of pupils in schools that are flagged as residential on *Get Information about Schools* at 8 November 2021.

**15.** The statutory framework for governance and oversight of schools in England and Wales is complex, with a number of different agencies holding responsibilities. As it has developed incrementally over time, the current system is now a patchwork of different types of schools, with different funding arrangements and different forms of oversight.

**15.1.** There are now two types of **state-funded schools** in England: schools maintained by the local authority and academies. Academies are funded by central government or partially funded by sponsors, which could be private companies or charities. Before the introduction of academy schools in 2000, the vast majority of state-funded schools were maintained by local authorities. However, 37 percent of state-funded primary schools and 78 percent of state-funded secondary schools were academies by 2021.<sup>65</sup> In Wales, all state-funded schools are local authority maintained schools; there are no academy schools.

**15.2. Independent schools** (also known as **private schools**) charge fees to attend and are registered by the Department for Education (in England) or the Welsh Government (in Wales).<sup>66</sup> There are mainstream independent schools and independent schools specifically for children with special educational needs and disabilities.<sup>67</sup>

**15.3. Residential schools** provide overnight accommodation for pupils as well as education. The majority of mainstream boarding schools are in the independent sector. In November 2020, there were 34 state-funded boarding schools in England where the education is free but the boarding element is fee paying.<sup>68</sup> There are no state boarding

<sup>65</sup> INQ006503\_004; DFE002073\_026-027; DFE003478

<sup>66</sup> Section 463 of the *Education Act 1996*

<sup>67</sup> Section 347 of the *Education Act 1996*, as amended by the *Education and Skills Act 2008*

<sup>68</sup> INQ006512\_001

schools in Wales. Boarders typically stay at school on a weekly or termly basis, although some schools offer flexi-boarding where pupils are able to stay overnight at school on a more ad hoc basis. In both the independent and state-funded sectors, there are also residential special schools which educate and care for children with special educational needs and disabilities.

**15.4.** For the purposes of this report, the term **mainstream school** is used to describe a state-funded or independent school which provides education for all children generally, rather than those established specifically for children with special educational needs. The majority of children with special educational needs attend mainstream schools; approximately 1 million children in England<sup>69</sup> and 93,000 pupils in Wales.<sup>70</sup>

**15.5.** A **special school** – which may be a state-funded or an independent school – is specially organised to make provision for pupils with special educational needs.<sup>71</sup> Children have special educational needs if they have significantly greater difficulty in learning than the majority of others of the same age, or a disability which prevents them from making use of facilities of a kind usually provided within mainstream schools.<sup>72</sup>

Further details about the education system are set out in Annexes 3 and 4.

## A.4: Methodology

**16.** The process adopted by the Inquiry is set out in Annex 1 to this report. Core participant status was granted under Rule 5 of the Inquiry Rules 2006 to 51 victims and survivors, and 18 institutions and other interested parties.

**17.** Individuals contacted the Inquiry with concerns about over 160 schools. The Inquiry obtained information about more than 75 schools. This information was analysed in order to select a small sample of schools to examine in detail. This report examines responses to safeguarding concerns in 12 schools in England and 1 school in Wales but it does not comprehensively review safeguarding practices within them. The incidents identified provide examples of common safeguarding issues which can arise in a particular educational setting, as well as examples of poor practice or illustrations of limitations within the wider safeguarding system. In some cases, the school's response demonstrated good practice. The examples given are intended to illustrate themes which emerge across the sector. The incidents examined are not intended to reflect current safeguarding practice at a particular school.

**18.** The Inquiry held three preliminary hearings on 16 January 2019, 25 July 2019 and 14 January 2020. The Phase 1 hearing was held over 2 weeks from 30 September 2019 to 11 October 2019, and the Phase 2 hearing was held over 2 weeks from 16 to 27 November 2020.

**19.** The Inquiry received evidence from a number of sources:

- victim/survivor and complainant core participants and other family members;
- witnesses responsible for safeguarding at the schools examined;

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<sup>69</sup> INQ006530\_005

<sup>70</sup> INQ006606\_003

<sup>71</sup> Since the Children and Families Act 2014 came into force, there has not been any definition of an independent special school in legislation. Section 337 of the Education Act 1996 defines state-funded special schools.

<sup>72</sup> Section 20 of the Children and Families Act 2014

- the relevant police and local authority officers responsible for handling allegations against adults working in the schools examined;
- organisations involved in safeguarding children in schools, including Mencap, the National Autistic Society and the National Society for the Prevention of Cruelty to Children (NSPCC);
- Dame Christine Lenehan, director of the Council for Disabled Children since 2003 and author of two reviews commissioned by the Department for Education, one of which looked at residential special schools;
- institutions involved in safeguarding across the education sector in England, such as the Department for Education, Ofsted, the Independent Schools Inspectorate and the Teaching Regulation Agency;
- institutions involved in safeguarding children in schools in Wales, including the Welsh Government, Estyn (the Welsh inspectorate of schools), the Care Inspectorate Wales, the Children's Commissioner for Wales and the Education Workforce Council; and
- other organisations with a role in safeguarding in schools across England and Wales, such as the Disclosure and Barring Service, the teaching unions, as well as member organisations such as the Boarding Schools' Association and the Association for the Education and Guardianship of International Students (AEGIS).

**20.** Material was reviewed from many sources, including criminal prosecutions, civil claims, disciplinary tribunals, local authority investigations, and independent reviews and reports, as well as policies and procedures of individual schools and guidance published by the Department for Education.

**21.** The Inquiry instructed two experts in relation to this investigation:

- Professor Simon Hackett, professor of child abuse and neglect at Durham University, is an expert on harmful sexual behaviour between children. His report deals with the developing understanding of harmful sexual behaviour between children (especially among children with learning disabilities), the evolving response and the barriers to disclosure of this type of behaviour.<sup>73</sup>
- Marcus Erooga, an independent safeguarding consultant with over 25 years' experience working within the NSPCC, explained how offenders within institutions such as residential schools operate, and how organisational cultures within schools could be improved.<sup>74</sup>

**22.** In order to learn more about child sexual abuse and safeguarding practice in residential schools, the Inquiry undertook or commissioned the following research:

- a literature review, published by the Inquiry in November 2018, to summarise existing research on child sexual abuse in residential schools;<sup>75</sup> and
- research in 15 mainstream and residential special schools in 7 local authorities across England and Wales carried out by the National Centre for Social Research (NatCen), working with ResearchAbility. This NatCen research report was published in April 2020.<sup>76</sup>

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<sup>73</sup> EWM000469

<sup>74</sup> EWM000471; EWM000473

<sup>75</sup> *Child sexual abuse in residential schools: A literature review*

<sup>76</sup> *Safeguarding children from sexual abuse in residential schools*

**23.** The Inquiry's research team also analysed data gathered from testimonies provided to the Truth Project by victims and survivors of sexual abuse in school settings.<sup>77</sup>

## A.5: Terminology

**24.** There have been some changes in the terminology of safeguarding in schools during the timeframe considered in this investigation, particularly since the government published *Safeguarding Children and Safer Recruitment in Education* in 2006. Within the education sector, there is now a differentiation between the terms 'child protection' and 'safeguarding'. Safeguarding refers to measures to keep all children safe, while child protection refers distinctly to children identified as being at risk of harm or having been harmed. This change is reflected in the changing title of specific staff roles in schools, with child protection officers becoming designated safeguarding leads. In this report, 'safeguarding' refers to policies, procedures, guidance and regulations which apply across an institution or sector.

**25.** Those who have made allegations of child sexual abuse, where those allegations have not been proven by way of criminal conviction, civil findings or findings in the context of disciplinary proceedings, will be referred to as complainants. Where such allegations have been proven, individuals will be referred to as victims and survivors.

**26.** The terms 'harmful sexual behaviour' and 'peer-on-peer sexual abuse' are used interchangeably in current UK government guidance to refer to sexual abuse between children. The Welsh Government guidance refers to harmful sexual behaviour. This report uses the term 'harmful sexual behaviour', which reflects that this behaviour may be harmful to others but also to the child responsible for that harm.

**27.** Throughout the period referred to in this report, the government department with responsibility for schools in England has changed its name several times, being known variously as the Department of Education and Science, the Department for Education and Employment, the Department for Education and Skills, and the Department for Children, Schools and Families, before becoming the Department for Education in 2010. When dealing with matters prior to 2010, the department is referred to by the name which was current at the relevant time.

**28.** Similarly, when referring to local authorities and their statutory responsibility for children including children in care, the term 'children's social care' is used for consistency. Until 2006, this work was carried out by social services and then by children's services.

**29.** Some convictions referred to in this report are for offences under the legislation in place prior to the current Sexual Offences Act 2003. Where such convictions are referred to, the terminology of the statute under which the conviction was made is used: for example, sexual assault was called 'indecent assault' and anal rape was called 'buggery'.

## A.6: References

**30.** References in the footnotes of the report such as 'EWM000473' are to documents that have been adduced in evidence or posted on the Inquiry website. A reference such as 'Nicola Laird 18 November 2020 123/22' is to the witness, the date they gave evidence, and the page and line reference within the relevant transcript (available on the Inquiry website).

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<sup>77</sup> *Truth Project Thematic Report: Child sexual abuse in the context of schools*



Part B

# Safeguarding concerns

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# Safeguarding concerns

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## B.1: Introduction

1. This Part summarises instances of child sexual abuse, harmful sexual behaviour between pupils and safeguarding concerns in the 12 schools in England considered by this investigation, as well as the schools' responses to these incidents. This factual evidence sets the context for the later thematic Parts E to I.

## B.2: Music schools

2. Through the Music and Dance Scheme (MDS), the Department for Education provides income-assessed grants or bursaries to pay all or part of the fees for children at specialist music or dance schools in England. The schools themselves decide whom to offer places and may withdraw a place according to their own policies.

3. There are four specialist music schools in the MDS in England:

- Chetham's School of Music in Manchester (Chetham's);
- The Yehudi Menuhin School in Surrey;
- The Purcell School for Young Musicians in Hertfordshire (the Purcell School); and
- Wells Cathedral School in Somerset.

These four specialist music schools are independent boarding schools, although day pupils also attend. In all four schools, there have been allegations of sexual abuse of students by teachers or other adults working at the school.

4. A watershed moment came in 2013, when Mrs Frances Andrade took her own life shortly after giving evidence at the trial of Michael Brewer. The former director of music at Chetham's was convicted of sexual offences against her when she was a pupil and boarder at the school (when named Miss Frances Shorney, as she is referred to below). Mrs Andrade's death and Brewer's conviction were widely reported in the press, prompting many former pupils of Chetham's and the other specialist music schools to come forward and speak about their experiences of child sexual abuse within music education from the 1960s to the present day. Many spoke to the police through Operation Kiso, a large-scale investigation by Greater Manchester Police. Many more contacted Dr Ian Pace, a musicologist and former pupil of Chetham's, who had written a number of articles on his blog, *Desiring Progress*, regarding the trial of Brewer and the incidence of child sexual abuse in specialist music education.<sup>78</sup>

### Chetham's School of Music

5. Chetham's is situated in the centre of Manchester, close to Manchester Cathedral. The Cathedral choristers are educated at the school.<sup>79</sup> It became a co-educational specialist music school in 1969, having been a boys' grammar school since 1656.<sup>80</sup> Chetham's is the

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<sup>78</sup> Ian Pace 1 October 2019 121/1-122/10

<sup>79</sup> CSM000573\_015 para 120

<sup>80</sup> CSM000573\_002 paras 4-5

largest of the four specialist music schools, currently providing full-time academic education, in addition to specialist music tuition, for just over 300 pupils aged between 8 and 18. More than one-third of its student body is in the sixth form (aged 16 to 18).<sup>81</sup> At the time of the Inquiry's hearing in October 2019, the school had 220 boarders and around 10 percent of its students were from overseas.<sup>82</sup>

6. Incidents of child sexual abuse which occurred at Chetham's between the 1970s and the 1990s led to five adults who worked with children there facing criminal charges. Some allegations of child sexual abuse at Chetham's were reported after the alleged perpetrators had died, resulting in no further action being taken by police.

### *Michael Brewer*

7. Michael Brewer was the director of music at Chetham's for 20 years, from his appointment in 1974. He was appointed by and directly accountable to the governing body (known at that time as the School Committee), rather than the headteacher.<sup>83</sup> Brewer was a powerful figure, having complete autonomy over all matters relating to music.<sup>84</sup> Mr Peter Hullah (headteacher from 1992 to 1999) told the Inquiry that "*the Director of Music was the School*".<sup>85</sup> Brewer was also highly regarded outside the school.<sup>86</sup> He left Chetham's in December 1994 and continued to work with young people as the artistic director of the National Youth Choir, which he had founded in 1983. Brewer was awarded an OBE in the 1995 New Year's Honours List for services to music education.

8. Frances Shorney was a boarder at Chetham's during the late 1970s and early 1980s. Brewer groomed and sexually abused her when she was 14 and 15 years old in his office at Chetham's and also at his family home. The sexual abuse escalated from kissing and touching to oral sex and penetrative sexual intercourse. At one point, because Miss Shorney was exhibiting emotional and behavioural problems, the headteacher, Mr John Vallins, agreed that she should move into the Brewers' family home in order to help her cope with the pressures of the school.<sup>87</sup> Brewer continued to sexually abuse her when she lived with his family. It was not until many years after she left Chetham's that she felt able to confide in a fellow musician about the sexual abuse she had suffered as a pupil, before making formal allegations to the police in 2011.<sup>88</sup>

9. In the course of its investigation into the allegations against Brewer, Greater Manchester Police spoke with a number of former pupils of the school. Several recalled that it was common knowledge amongst the student body that Brewer had an inappropriate sexual relationship with Miss Shorney<sup>89</sup> and that Brewer had targeted other girls. One witness told the police that Brewer had made aggressive sexual advances towards her on a school trip when she was 16, which she had rebuffed.<sup>90</sup>

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<sup>81</sup> CSM000573\_003 para 15

<sup>82</sup> CSM000573\_003 para 16; CSM000573\_015 para 126

<sup>83</sup> Peter Hullah 1 October 2019 158/23-159/23

<sup>84</sup> John Vallins 1 October 2019 79/3-21, 154/5-18

<sup>85</sup> Peter Hullah 1 October 2019 160/10-13

<sup>86</sup> Peter Hullah 1 October 2019 160/4-9

<sup>87</sup> OHY007903\_003 para 21

<sup>88</sup> OHY007903\_002 paras 7-9

<sup>89</sup> OHY007903\_004-005 paras 35, 38

<sup>90</sup> OHY007903\_004 para 35



**10.** The police also identified a former pupil, RS-A187, whom Brewer groomed and then engaged in sexual activity with over several months in 1994, when she was 17 years old and he was 49.<sup>91</sup> RS-A187 gave evidence for the prosecution at the trial to show that Brewer had a sexual interest in the teenage girls in his care. Brewer did not face any criminal charges in relation to RS-A187, because it was not a criminal offence for a teacher to engage in consensual sexual activity with a pupil over 16 until 2001.<sup>92</sup>

**11.** In November 1994, the headteacher, Mr Hullah, became suspicious of the nature of the relationship between Brewer and RS-A187. Mr Hullah asked the housemistress, Mrs Anne Rhind, to speak to RS-A187, and later spoke to Brewer himself.<sup>93</sup> Brewer immediately acknowledged to the headteacher that a personal relationship had developed with RS-A187 which “*did cross a professional boundary*”, and said that his position had become untenable and that he wished to resign immediately.<sup>94</sup>

**12.** The governing body accepted Brewer’s resignation with immediate effect, which brought the headteacher’s investigation into the matter to an “*abrupt halt*”.<sup>95</sup> Brewer faced no disciplinary action. The reason given publicly for his departure was that he had retired due to ill health.<sup>96</sup> Brewer told the court in 2013 that this was Mr Hullah’s suggestion, and accepted that this had been a “*cover-up*”.<sup>97</sup> Mr Hullah told the Inquiry that Brewer had resigned and not retired, and that Brewer had not complained of any health problems at that time, but he denied that there had been a cover up in 1994.<sup>98</sup> Mr Hullah stated that he had informed the governing body of all the circumstances of Brewer’s resignation from the school.<sup>99</sup>

**13.** Brewer was paid his full salary from when he left Chetham’s in December 1994 until August 1995, which Mr Hullah considered to be a gesture of goodwill on the part of the governing body.<sup>100</sup> Brewer continued to be associated with Chetham’s as an advisor and to work closely with young people as the artistic director of the National Youth Choir.<sup>101</sup> Mr Hullah did not notify the National Youth Choir, the local authority or the Department for Education (which at that time operated ‘List 99’, a barred list of those deemed unsuitable to work with children) of the circumstances or the fact of Brewer’s resignation,<sup>102</sup> although there was a statutory duty to notify the Department for Education of such resignations.<sup>103</sup> Mr Hullah did not consider that the circumstances of Brewer’s resignation were such as to require any referrals or notification.<sup>104</sup>

**14.** In February 2013, Brewer was convicted of indecently assaulting Frances Shorney on multiple occasions when she was under 16.<sup>105</sup> The trial judge sentenced Brewer to six years’ imprisonment and described him as a “*predatory sex offender*” whose behaviour was “*manipulative and depraved*”. He noted that Brewer’s power and influence in the school was

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<sup>91</sup> OHY007903\_004 paras 29–31

<sup>92</sup> Sections 3–4 of the Sexual Offences (Amendment) Act 2000 (now sections 16–22 of the Sexual Offences Act 2003).

<sup>93</sup> Peter Hullah 1 October 2019 176/14-177/17

<sup>94</sup> Peter Hullah 1 October 2019 174/11-19

<sup>95</sup> Peter Hullah 1 October 2019 174/4-23

<sup>96</sup> CSM000032\_004

<sup>97</sup> CSM000296\_049-050; Claire Moreland 2 October 2019 27/1-23

<sup>98</sup> Peter Hullah 1 October 2019 185/15-23

<sup>99</sup> Peter Hullah 1 October 2019 187/11-23

<sup>100</sup> Peter Hullah 1 October 2019 192/20-25

<sup>101</sup> Peter Hullah 1 October 2019 192/11-16, 198/10-19

<sup>102</sup> Peter Hullah 1 October 2019 197/18-22, 198/10-199/2

<sup>103</sup> DFE002073\_196 para 864

<sup>104</sup> Peter Hullah 1 October 2019 198/10-199/2

<sup>105</sup> CSM000308\_001-006

such that he was able “with little, if any, prospect of challenge from anyone else”.<sup>106</sup> He also expressed surprise that witnesses testified to Brewer’s good character in the knowledge that he had conducted a clandestine relationship with a pupil, and appeared to be “more than happy to overlook one of the most shocking aspects of this case”.<sup>107</sup>

### Christopher Ling

**15.** Christopher Ling taught the violin at Chetham’s. He was recruited by Brewer in 1985. He left Chetham’s at the end of the school year in summer 1990 for a teaching role at the University of Miami, taking with him as his pupils a small group of girls from Chetham’s.<sup>108</sup>

**16.** In autumn 1990, a female pupil at Chetham’s, RS-A3, disclosed that she had been sexually abused over a long period of time by Ling, who had been her violin tutor. Greater Manchester Police began a criminal investigation. The police identified eight girls who alleged they had been sexually abused by Ling while they were pupils at the school. The victims were aged between 9 and 15 years at the start of the abuse, which ranged from kissing, spanking and sexual touching to full sexual intercourse in some cases. Ling operated a reward and punishment system which enabled him to facilitate the sexual abuse, most of which took place at his private residence during tuition at weekends and on music courses during the school holidays. Some sexual assaults occurred in a small coffee room at Chetham’s.<sup>109</sup>

**17.** Two of Ling’s victims, RS-A1 and RS-A2, gave evidence to the Inquiry. They both recalled making statements to the police in 1990. RS-A1 was interviewed at home over five hours.<sup>110</sup> RS-A2 was then 16 years old. She told the Inquiry that she had been interviewed by the police in the presence of the housemistress, Mrs Rhind, which she found unhelpful.<sup>111</sup> She had the impression that Mrs Rhind was worried about the reputation of the school and was angry with her.

**18.** RS-A2 recalled the police subsequently telling her that the case would not proceed due to a lack of evidence.<sup>112</sup> Mr Vallins recalled that the police said there was sufficient evidence to charge Ling but that the offences were not extraditable.<sup>113</sup> It appears that the prosecutor was wrongly advised by a senior Crown Prosecution Service lawyer that it was not possible to seek extradition from the USA in the circumstances.<sup>114</sup>

**19.** Once it was clear that Ling would not be prosecuted, the school did not carry out any investigation into his conduct, nor did the governors or headteacher initiate any review of child protection arrangements at the school.<sup>115</sup> The school did not notify children’s social care or the Department for Education of the allegations. The school did not make contact with Ling’s employer in the USA at any point. Mr Vallins stated that the school was not aware of where Ling was teaching, even though he had taken a number of pupils from Chetham’s

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<sup>106</sup> CSM000308\_002-003

<sup>107</sup> CSM000308\_003

<sup>108</sup> CPS004806\_003 para 14

<sup>109</sup> CPS004806\_003-006

<sup>110</sup> RS-A1 1 October 2019 65/16-17

<sup>111</sup> RS-A2 1 October 2019 22/3-17

<sup>112</sup> RS-A2 1 October 2019 23/10-14

<sup>113</sup> John Vallins 1 October 2019 140/20-141/4

<sup>114</sup> CPS004806\_007-008

<sup>115</sup> John Vallins 1 October 2019 143/7-24; RS-A1 1 October 2019 68/5-7

with him.<sup>116</sup> No school policies or procedures were updated or introduced. The children affected were not offered any counselling or any other form of support by the school. RS-A1 recalled “*It was as if it hadn’t happened*”.<sup>117</sup>

### Operation Kiso

**20.** In the aftermath of Brewer’s trial, the police received a large number of complaints by former students of Chetham’s and the Royal Northern College of Music in Manchester (RNCM, a college for students aged over 18, some of whom had been pupils at Chetham’s) alleging non-recent sexual abuse of pupils and students by staff. In February 2014, Greater Manchester Police launched Operation Kiso, a large-scale investigation into sexual offending at both institutions. During this investigation, 47 alleged perpetrators were reported to the police, 35 of whom were associated with Chetham’s.<sup>118</sup> A number of the allegations related to staff who were deceased and therefore could not be prosecuted, including the highly esteemed piano teacher Ryszard Bakst, against whom the police compiled a “*compelling*”<sup>119</sup> file of evidence, including complaints from six women. Criminal charges were brought against four men for sexual offences against pupils at Chetham’s: Nicholas Smith, Malcolm Layfield, Christopher Ling and Wen Zhou Li.

**21.** Nicholas Smith was associated with Chetham’s as a visiting conductor. In September 2014, he was sentenced to 8 months’ imprisonment after pleading guilty to indecently assaulting a 14 or 15-year-old Chetham’s pupil in the late 1970s. Smith had invited RS-A164 to his cottage for the weekend, as he knew she was homesick and unhappy, having endured “*frankly sadistic*” treatment at the hands of a housemistress.<sup>120</sup> He sexually assaulted her by knocking her to the ground and groping her while his wife was in the bath upstairs.<sup>121</sup> RS-A164 had been a pupil at Chetham’s at the same time as Frances Shorney and decided to come forward after reading reports of her death.

**22.** Malcolm Layfield taught and conducted chamber music at Chetham’s in the 1970s and 1980s, and also at the RNCM where he was appointed head of strings in 2002. Layfield was tried and acquitted in 2015 of the rape of an 18-year-old student in the 1980s, when he had been in his 30s. During the trial, he claimed that the sex had been consensual but admitted behaving “*shamefully*” by having consensual sexual intercourse with a number of his female students from Chetham’s and the RNCM, the youngest of whom was 17, during the 1980s.<sup>122</sup>

**23.** In 2013, a teacher at Chetham’s, Wen Zhou Li, was arrested and charged with the rape of an overseas student, RS-A165, in the late 1990s.<sup>123</sup> The charges were withdrawn before trial due to evidential issues.<sup>124</sup> RS-A165 then brought a civil claim against Chetham’s for the sexual abuse she alleged that Li had committed against her when he was her tutor and her educational guardian at the school. In May 2021, a civil court found that Wen Zhou Li had kissed RS-A165 on several occasions in a teaching room at Chetham’s when she was 15, and that this was “*the beginning of an escalating course of sexual assaults*” committed in his car

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<sup>116</sup> John Vallins 1 October 2019 145/5-7

<sup>117</sup> RS-A1 1 October 2019 68/5-7

<sup>118</sup> OHY007907\_003

<sup>119</sup> OHY007907\_006

<sup>120</sup> INQ006429\_002

<sup>121</sup> INQ003834\_002

<sup>122</sup> OHY007907\_005; INQ006428

<sup>123</sup> At the time of the Phase 1 hearing, the civil case against Wen Zhou Li had not concluded and therefore a cipher was applied to protect his identity. Following the findings of the High Court judge, the Chair discharged the cipher in a written determination dated 17 August 2021. His name may still be ciphered in some of the underlying material.

<sup>124</sup> OHY007907\_005

and in his flat, where she stayed on occasion because he was her educational guardian.<sup>125</sup> The judge found that “*Mr Li exploited the opportunities presented by being [RS-A165’s] teacher and by being her guardian*”.<sup>126</sup> The judge also found that Li was instrumental in persuading RS-A165 and her parents that she should leave the school where she was studying music and follow him to his new teaching post at Chetham’s in 1996. Chetham’s was ordered to pay damages to RS-A165.<sup>127</sup>

**24.** During Operation Kiso, Greater Manchester Police re-investigated the Christopher Ling case. Because the original files of evidence were no longer in existence, the police had to interview the complainants again and build a new case file. The investigation identified 12 women who alleged that they had been abused by Ling as children, eight of whom had been pupils of Ling’s at Chetham’s.<sup>128</sup> The Chetham’s pupils included RS-A1, RS-A2, RS-A3, RS-A4 and RS-A5, all of whom provided accounts of their abuse to the Inquiry.

**25.** In 2014, the police and the Crown Prosecution Service pursued Ling’s extradition from the USA to stand trial in England on 77 sexual offence charges relating to 11 complainants. In September 2015, as US Marshals arrived at his Los Angeles home with a warrant for his arrest, Ling shot himself dead.<sup>129</sup>

## The Yehudi Menuhin School

**26.** The Yehudi Menuhin School was founded in 1963 by the celebrated violinist Yehudi Menuhin with the objective of educating young string players and pianists with exceptional musical ability from across the world. It began with 15 pupils and remains the smallest of the specialist schools, with 86 students across nine year-groups as at March 2019, and 68 full or weekly boarders. Sixty-one pupils benefit from MDS funding.<sup>130</sup> The school is situated in Stoke d’Abernon, near Cobham in Surrey.

### *Allegations of non-recent child sexual abuse*

**27.** In May 2013, following press reports of the trial and conviction of Brewer and the death of Mrs Andrade, Channel 4 News broadcast a segment focussing on allegations of non-recent child sexual abuse at specialist music schools. A number of former pupils spoke to Channel 4 News to allege sexual abuse by Mr Marcel Gazelle, a renowned pianist and the first director of music at The Yehudi Menuhin School. He died in 1969. One complainant recalled him coming into the dormitory in the morning, and his hands tickling her under the bedclothes “*where they shouldn’t be*”.<sup>131</sup>

**28.** Around the time of the Channel 4 broadcast, four women contacted the headteacher, Dr Richard Hillier, to inform him of sexual abuse by Gazelle when they were among the first pupils at the school in the 1960s.<sup>132</sup> All allegations were referred to the police, who logged the reports but took no further action as Gazelle was deceased.<sup>133</sup> Dr Hillier discussed the complaints of non-recent sexual abuse with the school’s designated safeguarding lead (DSL),

<sup>125</sup> INQ006527\_087-088 para 97; for more detail on the role of educational guardians see Part C paras 14–2s.

<sup>126</sup> INQ006527\_023 para 23(4)

<sup>127</sup> INQ006527\_088 para 98

<sup>128</sup> OHY007907\_003

<sup>129</sup> OHY007907\_004

<sup>130</sup> YMS000142\_001-002

<sup>131</sup> INQ004446\_003

<sup>132</sup> INQ004420\_013

<sup>133</sup> Richard Hillier 3 October 2019 43/1-3

the senior management team and the chair of governors. No changes were made to school policies, because Dr Hillier was satisfied that music staff were no longer permitted to access boarding houses.<sup>134</sup>

**29.** In 2009, a former student, RS-A218, contacted the director of music with allegations that a non-music teacher repeatedly sexually abused her over a 2-year period in the late 1970s or early 1980s, when she was under 13 years of age.<sup>135</sup> RS-A218 did not wish to make a complaint to the police, and it appears that the allegation was not referred to the police at that time.<sup>136</sup> When the director of music brought the allegation to the attention of Dr Hillier in 2013, Dr Hillier arranged to meet and speak with RS-A218 before referring the matter to the police, without naming her, in accordance with her wishes.

### RS-F13

**30.** In around 2006, a female student complained that her tutor, RS-F13, had made sexualised and inappropriate comments in one-to-one instrumental lessons, which made her uncomfortable.<sup>137</sup> The student was moved to another teacher by the headteacher, Mr Nicholas Chisholm. Mr Chisholm warned RS-F13 verbally about using inappropriate language but at that time he did not consider this to indicate a possible safeguarding risk and so the matter was not notified to the local authority.<sup>138</sup>

**31.** In 2013, another female student, RS-A204, made an allegation that RS-F13 had attempted to kiss her a year previously.<sup>139</sup> The allegation was referred to the local authority designated officer (LADO).<sup>140</sup> A disciplinary investigation concluded that the disputed allegation was “*unsubstantiated*”.<sup>141</sup> However, the school had sufficient concerns regarding RS-F13 that restrictions were placed upon his teaching relating to the time and location of his lessons. RS-F13 also had to undertake further safeguarding training.<sup>142</sup>

**32.** Around the same time, a former student of a different specialist music school, RS-A170, made a complaint through Operation Kiso that RS-F13 had a sexual relationship with her in the 1980s, when she was 16 and his pupil.<sup>143</sup> RS-A170’s account to the police raised issues regarding her consent to some of the sexual activity but she declined to support a prosecution.<sup>144</sup> An internet search by a Greater Manchester Police officer revealed that RS-F13 was teaching at The Yehudi Menuhin School but the officer did not record this information and did not pass it on to the police force to which the case was referred<sup>145</sup> (the alleged incidents were not connected with Chetham’s or the RNCM and did not take place within the operational area of Greater Manchester Police). No police force contacted The Yehudi Menuhin School in connection with RS-A170’s allegations to ascertain whether any potential safeguarding risks to children were appropriately managed. The Yehudi

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<sup>134</sup> INQ004420\_014 para 6.5

<sup>135</sup> INQ004486\_003-004 paras 4.1-4.7

<sup>136</sup> INQ004420\_015

<sup>137</sup> YMS000036

<sup>138</sup> INQ004419\_007-008 paras 4.3-4.4

<sup>139</sup> Richard Hillier 3 October 2019 29/21-25

<sup>140</sup> Richard Hillier 3 October 2019 30/11-12

<sup>141</sup> Richard Hillier 3 October 2019 32/22-33/4

<sup>142</sup> Richard Hillier 3 October 2019 32/1-21

<sup>143</sup> OHY008527\_006

<sup>144</sup> OHY008527\_007

<sup>145</sup> Richard Hillier 3 October 2019 37/12-14; OHY007905\_002; OHY008531\_002-003

Menuhin School was not made aware in 2013 of the existence of RS-A170's allegations about RS-F13's conduct. Had the school been aware of this information, it would have been relevant to the investigation of the allegation made by RS-A204.<sup>146</sup>

**33.** Further concerns regarding RS-F13's conduct were raised in 2014, when a parent complained to the school's DSL that RS-F13 had an overly close relationship with her child. He wanted to take photographs of her, would not permit her father to stay when he gave lessons at his private residence, gave her hand massages and seemed to have power over her.<sup>147</sup> The pupil was moved to a different teacher. Dr Hillier and the DSL decided that the concerns did not warrant discussion with the LADO. A short time later, RS-F13 resigned from the school over an unrelated issue regarding new contractual terms.<sup>148</sup>

## Wells Cathedral School

**34.** Wells Cathedral School is an independent day and boarding school for boys and girls in Somerset. It is a relatively small school of around 750 pupils from nursery to sixth form.<sup>149</sup> There are 556 pupils in the senior school, approximately half of whom board, and there are 188 pupils whose parents live overseas.<sup>150</sup> Unlike the other specialist music schools, it is predominantly an all-round school, with only around one-quarter of its pupils (approximately 160) from Year 6 upwards enrolled in the specialist music programme.<sup>151</sup> It has very close links with the neighbouring Cathedral – all choristers are educated at Wells Cathedral School and some Cathedral employees have contact with pupils through the choir and music teaching.<sup>152</sup>

### Julien Bertrand

**35.** In 2006, Julien Bertrand, a former member of staff at Wells Cathedral School, was convicted of sexual offences against RS-A202 and another boy at a school where he had worked previously, and was sentenced to six years' imprisonment.<sup>153</sup> Bertrand groomed RS-A202 and his family over a number of years. The offending began at a different school when RS-A202 was 14 years old, culminating in penetrative sexual assaults at Wells Cathedral School when RS-A202 was 17 years old.<sup>154</sup> Bertrand began working at Wells Cathedral school as a graduate music assistant in 2002, with responsibility for supervising practice sessions for those pupils who were specialist musicians. Bertrand quickly volunteered his services as a French assistant and a badminton coach, and was appointed assistant housemaster in 2003. Several members of staff at Wells Cathedral School voiced concerns to the deputy headteacher or the headteacher about the conduct of Bertrand in relation to pupils at the school, and especially towards RS-A202. Bertrand was given an informal warning in 2003 for inviting RS-A202 to his room late at night.<sup>155</sup> In 2004, Bertrand began an Open University course to train as a music teacher, whilst he continued working at the school. Around this time, the boys in the house where Bertrand was assistant housemaster were noted to be making comments about his closeness with RS-A202. These

<sup>146</sup> Richard Hillier 3 October 2019 34/23-35/21

<sup>147</sup> Richard Hillier 3 October 2019 37/18-23, 39/16-23

<sup>148</sup> INQ004420\_023

<sup>149</sup> Alistair Tighe 2 October 2019 161/14-18

<sup>150</sup> WCS000127\_002-018 paras 2.5 and 6.1

<sup>151</sup> Alistair Tighe 2 October 2019 160/4-161/5

<sup>152</sup> Alistair Tighe 2 October 2019 185/12-18

<sup>153</sup> OHY008527\_003-005

<sup>154</sup> OHY008527\_002

<sup>155</sup> INQ004355\_006 para 8.4



concerns were discussed with the housemaster, who spoke to Bertrand and considered that this failure to observe appropriate boundaries was due to Bertrand's inexperience in the role.<sup>156</sup> In 2005, RS-A202 disclosed to a member of Cathedral staff that he had been sexually abused by Bertrand.<sup>157</sup> The deputy headteacher was informed and he immediately reported the allegations to the police.<sup>158</sup> Bertrand was arrested the same day. His flat at the school was searched and the police seized evidence including photographs and videos of RS-A202 and other boys. The headteacher suspended Bertrand and prohibited him from entering the school grounds.

**36.** RS-A202 was offered counselling with the school counsellor, which he accepted.<sup>159</sup> The parents of children at the school were informed that Bertrand had been suspended following an allegation of sexual abuse, without identifying RS-A202. The school had obtained written references before employing Bertrand but after his arrest the DSL found that the references were missing from Bertrand's file. It was suspected that Bertrand may have removed them himself.<sup>160</sup> Following the arrest of Bertrand, Wells Cathedral School reviewed and revised its safeguarding policies and practice, including the staff code of conduct. External training providers were invited to give safeguarding training to all staff.<sup>161</sup>

### *Other safeguarding concerns*

**37.** In the early 2000s, a number of low-level concerns were raised in relation to the conduct of RS-F23, another member of staff at Wells Cathedral School. The DSL was concerned by RS-F23's repeated infractions of school rules and failures to maintain appropriate professional boundaries.<sup>162</sup> The DSL kept detailed dated records of any concerns reported to her by staff, as well as her own observations of RS-F23 and his interactions with children at the school. The DSL ensured that all reported concerns were passed on to the deputy headteacher or headteacher. The school took a number of actions in response to these concerns, which included giving a formal warning in relation to aspects of his conduct, ensuring he was mentored in his paid role and requiring him to cease his voluntary role at the school, which had given him access to the boarding house.<sup>163</sup>

**38.** In addition, Mrs Helen Bennett stated that in her role as DSL, she received and recorded a number of concerns over a period of several years that a member of Cathedral staff had given lifts to boys in his car, and had allowed children to enter his accommodation next to the school grounds, which was a breach of his contract with the Cathedral. Mrs Bennett said that she discussed her concerns with the Cathedral safeguarding staff but, to her disappointment, no formal disciplinary action was taken by the Cathedral in respect of this conduct by a member of its staff.<sup>164</sup> Since May 2019, a written Safeguarding Partnership has been established between the school and the Cathedral. The headteacher, Mr Alistair Tighe, considered that under the partnership agreement it would "*probably not*" be open to the Cathedral safeguarding authorities to take a less serious view of a safeguarding concern than

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<sup>156</sup> INQ004355\_007 para 8.8

<sup>157</sup> INQ004355\_007 para 8.10

<sup>158</sup> Helen Bennett 2 October 2019 175/8-15

<sup>159</sup> INQ004355\_007 para 8.12

<sup>160</sup> INQ004355\_007-008 para 8.14

<sup>161</sup> Helen Bennett 2 October 2019 173/1-22

<sup>162</sup> Helen Bennett 2 October 2019 182/2-25

<sup>163</sup> INQ004355\_011 paras 9.13-9.14

<sup>164</sup> Helen Bennett 2 October 2019 184/18-185/1

the school, because of commonalities in their respective policies.<sup>165</sup> A code of conduct for Cathedral staff coming into contact with choristers was in development at the time of the Phase 1 hearing.

**39.** In 2013, allegations came to light regarding the misconduct of Malcolm Layfield towards a sixth-form pupil under the age of 18 on a Wells Cathedral School music tour abroad in 1990. Mr Layfield was not a member of staff but had accompanied the school tour as guest conductor. There was no criminal prosecution arising from the allegations. When the allegations were reported in the press in 2013, the school decided to commission two independent safeguarding reviews from external experts – one to examine the school's response in 1990 to the rumours which had surfaced at that time, and a second to audit the effectiveness of the current safeguarding arrangements at the school.<sup>166</sup> The first review, by a former police child protection officer, concluded that the school had acted in accordance with child protection practice in 1990, by attempting an investigation and questioning potential witnesses (the girl had not wished to speak to the headteacher or make a complaint at the time).<sup>167</sup> The second review found that the school's safeguarding practice in 2013 was compliant with statutory requirements, although it made some recommendations for improving the security of the school site, which were implemented by the school.

## The Purcell School for Young Musicians

**40.** The Central Tutorial School for Young Musicians was founded in 1962 in central London, changing its name to The Purcell School for Young Musicians (the Purcell School) in 1973 and moving to its current site in Bushey, Hertfordshire in 1997.<sup>168</sup> It teaches 180 boys and girls from the ages of 10 to 18, although almost half the student body is in the sixth form. The majority of the pupils board but it has approximately 40 day pupils. The school had 36 international students in October 2019.<sup>169</sup>

**41.** The Inquiry examined concerns raised regarding Mr Peter Crook, the headteacher of the Purcell School from 2007 to 2011, and allegations made against two members of staff, RS-F20 and RS-F80, during his headship.

**42.** A former teacher at the Purcell School, Mr Duncan McTier, was the subject of allegations brought to the police during Operation Kiso. In November 2014, he pleaded guilty to two counts of indecent assault and one attempted indecent assault which took place in the 1980s. The three victims had all been students of McTier, two at the RNCM and one at the Purcell School. In 1985, McTier had attempted to indecently assault the 17-year-old Purcell student by trying to grope her at his home after a private lesson.<sup>170</sup> In response to newspaper reports that McTier had been charged with offences against students, the Purcell School issued a press release which stated that McTier had not been an employee of the school but had given private lessons to some pupils. The press release stated that a recent inspection report by the Independent Schools Inspectorate (ISI) confirmed that the school's procedures were robust.<sup>171</sup>

<sup>165</sup> Alistair Tighe 2 October 2019 188/2-12

<sup>166</sup> Alistair Tighe 2 October 2019 196/23-198/3

<sup>167</sup> WCS000199

<sup>168</sup> PUR001259\_002 para 9

<sup>169</sup> Paul Bambrough 4 October 2019 39/5-40/10

<sup>170</sup> CPS004655\_003-004

<sup>171</sup> PUR001121



## *Allegations against RS-F20*

**43.** In January 2009, while attending an external course, a Purcell sixth-form student aged under 18 alleged that she had been in an inappropriate sexual relationship with a member of staff, RS-F20. The allegation was reported by the course leader to the local authority who notified the police.<sup>172</sup> The student, RS-A160, spoke to the police and indicated that there had been consensual sexual activity with RS-F20 when she was over 16. This would have constituted an ‘abuse of trust’ offence under section 16 of the Sexual Offences Act 2003. RS-F20 was interviewed by police and denied any sexual activity but did accept that he had hugged RS-A160 and kissed her on the cheek.<sup>173</sup> RS-A160 was not willing to support a prosecution and the investigation concluded that the allegation was “unfounded”.<sup>174</sup>

**44.** The case was referred back to the Purcell School. The headteacher, Mr Crook, arranged for RS-F20 to undertake further safeguarding training with the DSL.<sup>175</sup> No disciplinary action was taken against RS-F20, and his subsequent behaviour and contact with students was not monitored.<sup>176</sup> No records of the allegation or of any steps taken were kept by the school.<sup>177</sup>

**45.** Five years later, in 2014, another sixth-form student under the age of 18 made similar allegations against RS-F20. RS-A191 disclosed to a friend that she had a sexual “relationship” with RS-F20, and showed text messages of a sexual nature from RS-F20.<sup>178</sup> The police and the local authority began a joint investigation, and notified the Purcell School. The then headteacher, Mr David Thomas, suspended RS-F20 and also notified the chair of governors, the DSL and the deputy headteacher. While the local authority investigation considered that the allegations were substantiated, the police concluded that there was insufficient evidence to prosecute RS-F20, as RS-A191 was unwilling to provide evidence. A police application to obtain a Risk of Sexual Harm Order in order to restrict RS-F20’s contact with children was unsuccessful.<sup>179</sup>

**46.** The case was referred back to the Purcell School for an internal investigation. RS-F20 resigned before a disciplinary meeting could take place. Mr Thomas took the view that there was insufficient evidence to proceed with the disciplinary investigation.<sup>180</sup> He made a referral to the Disclosure and Barring Service (DBS), setting out the circumstances of RS-F20’s resignation from the school and also notified the Charity Commission of the incident. The DBS referred the case to the National College for Teaching and Leadership (NCTL) but it had no jurisdiction because RS-F20’s role was not defined as unsupervised teaching work.<sup>181</sup> The Purcell School retained records relating to the 2014 allegation against RS-F20, and liaised with police subsequently when concerns were raised about RS-F20 contacting female pupils at the school via social media.<sup>182</sup>

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<sup>172</sup> PUR001247\_004 paras 17 and 19; Peter Crook 3 October 2019 96/16-25

<sup>173</sup> HDC000006\_002

<sup>174</sup> HDC000006\_003

<sup>175</sup> PUR001247\_005 para 24

<sup>176</sup> PUR001247\_006 paras 29–30

<sup>177</sup> PUR001247\_006 para 27

<sup>178</sup> HDC000028\_002

<sup>179</sup> INQ004425\_003 para 18

<sup>180</sup> INQ004425\_004 para 21

<sup>181</sup> INQ004425\_004 para 25

<sup>182</sup> INQ004425\_004 para 27

## Allegations against RS-F80

**47.** In May 2010, RS-A192, a Purcell sixth-form student aged under 18, disclosed to a member of school staff that for some months she had been in an inappropriate relationship with a young staff member, RS-F80. RS-A192 spoke to several other staff members and reported the abuse to Childline before the school notified the LADO of the allegation two days later. RS-A192 alleged that RS-F80 had digitally penetrated her six months earlier, on the school field in the dark, when they were disturbed by the headteacher, Mr Crook. Mr Crook later told the strategy meeting and the Inquiry that he had not witnessed any sexual activity between RS-F80 and RS-A192 but recalled that he had told them to go inside and requested the DSL to ensure that RS-F80 received some further safeguarding training.<sup>183</sup> At the time, Mr Crook did not report the incident to the LADO or arrange for anyone to speak to RS-A192, and no record of the incident was made.<sup>184</sup>

**48.** After the LADO was notified in May 2010, the police commenced a criminal investigation. RS-A192 and RS-F80 were both interviewed, as was the headteacher. Mr Crook told the police that he thought that RS-A192 was not telling the truth, and believed that “*fantasy and exaggeration featured heavily in her account of events*”.<sup>185</sup> When RS-F80 was interviewed by police, he admitted that an inappropriate sexual relationship had existed and that RS-A192 had told the truth about the sexual activity on the field. On 23 September 2010, RS-F80 accepted a police caution for the offence of sexual touching while being in a position of trust and was placed on the Sex Offenders Register.<sup>186</sup> The LADO reminded the headteacher to refer the case to the Independent Safeguarding Authority to consider whether to bar RS-F80 from working with children, which he did.<sup>187</sup>

## Safeguarding concerns relating to the conduct of the headteacher

**49.** Throughout 2009 and 2010, a number of concerns were raised by staff and some parents regarding the behaviour of Mr Crook, in relation to inappropriate conversations he was alleged to have had with children at the school.

**50.** The first concern to be raised related to a meeting with the headteacher, the housemaster and the Year 9 boarding boys at the headteacher’s private accommodation on the school campus, on a Sunday evening in May 2009.<sup>188</sup> Mr Crook described it as a personal, social and health education (PSHE) lesson and a “*sexual talk*”.<sup>189</sup> He told the Inquiry it was in response to an incident of sexualised bullying in the boarding house involving two or three boys from that year group, in which two boys were rumoured to have ejaculated onto the bed of a third boy.<sup>190</sup> A covert recording of the headteacher was made by one of the boys, which did not surface until some months after the meeting was held.<sup>191</sup>

**51.** During the meeting, Mr Crook spoke to the boys at length about puberty, masturbation, pornography and other sexual matters. He discussed his own sexual experiences and fantasies. He told the boys how to measure their penises and spoke to the boys about

<sup>183</sup> PUR000905\_001; PUR000902\_006

<sup>184</sup> PUR000902\_006

<sup>185</sup> OHY007966\_002 para 7

<sup>186</sup> OHY007966\_002 paras 8–10

<sup>187</sup> PUR000907

<sup>188</sup> Peter Crook 3 October 2019 108/1-8

<sup>189</sup> Peter Crook 3 October 2019 112/9

<sup>190</sup> Peter Crook 3 October 2019 106/22–107/21

<sup>191</sup> HDC000046\_007-008 para 4.8

sexual experimentation with one another, telling them that he would ignore it if he caught two boys masturbating each other. Mr Crook used explicit and obscene language during the meeting.<sup>192</sup>

**52.** A group of school staff wrote anonymously to the chair of governors, Mr Graham Smallbone, about the meeting at the headteacher's house.<sup>193</sup> Mr Smallbone responded by letter, stating that he could not respond to the concerns without knowing the identity of the staff members. When no action was taken, whistleblowers on the school staff subsequently anonymously notified the local authority of their concerns about the conduct of the headteacher.<sup>194</sup> The local authority considered the complaint over a series of strategy meetings in which the chair of governors participated. The local authority decided the allegation was "*unsubstantiated*" on the basis that the incident did not amount to a safeguarding risk.<sup>195</sup> The local authority sent social workers to the Purcell School to ascertain the welfare of the boy who was alleged to have been bullied.<sup>196</sup>

**53.** A number of other complaints were notified to the LADO regarding Mr Crook's alleged conduct and language with pupils. The local authority considered each allegation, and all but one were concluded as unfounded or unsubstantiated. In July 2009, the local authority found an allegation was "*substantiated*" that Mr Crook had used obscene and inappropriate sexually explicit language when questioning two students who were rumoured to be in a sexual relationship.<sup>197</sup>

**54.** The substantiated case was referred back to the school for the board of governors to take disciplinary action against Mr Crook.<sup>198</sup> In September 2009, Mr Smallbone requested that the LADO reconsider the conclusion that the allegation was "*substantiated*".<sup>199</sup> The LADO declined to do so.<sup>200</sup> The governing body commissioned an "*independent review*" to ascertain why staff had reported their concerns directly to the LADO, which the chair of governors considered to be in contravention of school procedures.<sup>201</sup> The reviewers interviewed 47 members of staff. Their conclusions included that Mr Crook had "*used totally inappropriate language with pupils and has taken a dangerously personal interest in their sexual conduct*" and recommended that he be given a formal final written warning and placed on probation.<sup>202</sup> The governing body convened a disciplinary meeting in November 2009, when they decided not to discipline the headteacher with a formal warning or otherwise.<sup>203</sup>

**55.** When a covert recording of Mr Crook's remarks surfaced several months after the initial referral, the local authority reconvened a number of strategy meetings to consider the matter again, and concluded that the allegation was "*unfounded*" as there was no evidence of any intent to harm children.<sup>204</sup> The strategy meeting concluded that the 'PSHE lesson' was not an appropriate response to the allegation of bullying and that Mr Crook had made inappropriate remarks to the boys. They advised that these concerns should be dealt with

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<sup>192</sup> DFE001039

<sup>193</sup> Margaret Moore 4 October 2019 6/24; INQ006348\_067 paras 5.14–5.15; INQ006348\_063-064

<sup>194</sup> HDC000046\_006 para 4.1; Graham Smallbone 3 October 2019 185/1-186/14

<sup>195</sup> HDC000046\_007 para 4.5

<sup>196</sup> HDC000046\_006 para 4.4

<sup>197</sup> HDC000046\_007 para 4.6

<sup>198</sup> HDC000014

<sup>199</sup> PUR000498

<sup>200</sup> HDC000046\_007 para 4.7

<sup>201</sup> INQ004483

<sup>202</sup> Graham Smallbone 3 October 2019 167/9-169/17

<sup>203</sup> Peter Crook 3 October 2019 133/20-22; Graham Smallbone 3 October 2019 174/22-25

<sup>204</sup> HDC000046\_007-008 paras 4.8, 4.11

through the school's own disciplinary procedures, which Mr Smallbone assured them had been done.<sup>205</sup> In fact, Mr Crook was never the subject of any disciplinary sanction in relation to his inappropriate conversations with children at the school.

**56.** Mr Crook resigned from the school in November 2011, having signed a compromise agreement.<sup>206</sup>

**57.** In 2018, the governors of the Purcell School commissioned an independent safeguarding review to consider the school's responses to a number of previous child safeguarding concerns. The reviewer noted that "*the Chair of Governors and the Headteacher in post at the time of the case studies were not available for interview and so the reviewer was only able to examine documentary evidence*".<sup>207</sup> The reviewers concluded that Mr Crook had made a "*serious error of judgement*" in holding a PSHE session in the manner he did and that it raised questions about the safeguarding culture of the school.<sup>208</sup> The independent review also concluded that the chair of governors had not acted impartially in dealing with the complaints against the headteacher and that the failure to discipline Mr Crook was a "*misjudgement*".<sup>209</sup>

### B.3: Special schools

**58.** Special schools educate pupils with special educational needs and disabilities. This investigation considered evidence from five residential special schools. The term 'residential special schools' is used here to describe special schools with a residential component. This investigation considered evidence from individuals and institutions involved in safeguarding children with special educational needs. Three of the five schools considered were independent schools with associated children's homes.

**59.** The investigation examined past failings to identify what went wrong and whether there were still gaps and failings in the institutional framework. It also looked at examples of good practice currently to be found in residential special schools.

#### Stony Dean School

**60.** Stony Dean School is a special school maintained by Buckinghamshire County Council. It is now a day school but until February 2005 it was a residential special school with some day pupils. It was a school for children with moderate learning difficulties and communication difficulties, including autism. A proportion of the children had emotional and behavioural difficulties linked to their learning or communication needs.<sup>210</sup> The pupils were between 11 and 18 years old.

**61.** Two of the school's former employees, both heads of care, were convicted of sexual offences against pupils. Malcolm Stride was the head of care at Stony Dean when he was arrested in 1998 for sexual offences committed whilst he was teaching at a previous school in North Yorkshire.<sup>211</sup> He was subsequently sentenced to three years and three months' imprisonment at York Crown Court in January 2000.<sup>212</sup>

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<sup>205</sup> HDC000046\_008 para 4.12

<sup>206</sup> PUR001260\_010 para 28

<sup>207</sup> PUR001260\_001 para 5

<sup>208</sup> PUR001260\_004 para 10

<sup>209</sup> PUR001260\_007 para 20

<sup>210</sup> OFS010499\_007

<sup>211</sup> Richard Nash 9 October 2019 144/17-23

<sup>212</sup> INQ000570\_016 para 5.13

**62.** After Stride's arrest in 1998 he was suspended by the school and Anthony Bulley (also known as Nigel) replaced him as head of care. In 2002, the mother of a pupil, RS-A200, reported to the local authority that her son had told her that Bulley had invited him to his flat and had touched him on or near his penis.<sup>213</sup> Bulley was suspended and a series of multidisciplinary meetings were led by Buckinghamshire County Council. Giving evidence, Richard Nash, service director for children's social care for Buckinghamshire County Council, accepted that inadequacies in those meetings meant that the council had missed an opportunity to stop Bulley's offending in 2002.<sup>214</sup>

**63.** In 2002, there was also a "completely flawed" school investigation, poorly overseen by the local authority, which resulted in Bulley returning to the school and no disciplinary action being taken.<sup>215</sup>

**64.** RS-A7 said that he was being sexually abused by Bulley prior to Bulley's suspension in 2002, and that when Bulley was not at the school RS-A7 "was a lot happier that I could get on with what I needed to do in school. I felt safe".<sup>216</sup> RS-A7 did not remember any students being asked about Bulley's behaviour in 2002.<sup>217</sup> When Bulley came back, he continued his sexual abuse of RS-A7.<sup>218</sup>

**65.** In 2004, a further allegation by another pupil, RS-A240, and a subsequent investigation in which other children informed the authorities that they had been abused, led to Bulley's arrest and eventual conviction.<sup>219</sup> In 2005, Bulley pleaded guilty to six offences of rape and sexual assault committed against four boys aged 11 to 14 at the school. Eleven counts involving three other boys were not proceeded with. Bulley was sentenced to 10 years' imprisonment with a licence period of 15 years and was banned from working with children for life.<sup>220</sup> RS-A7 told the Inquiry that he had only told the police about three occasions when Bulley had sexually assaulted him because his father was able to hear what he said when he was interviewed by police and he was embarrassed.<sup>221</sup> In fact, RS-A7 believes that he was raped and sexually assaulted by Bulley more than 20 times over a 2-year period, between the ages of 11 and 13 years.<sup>222</sup>

**66.** Following Bulley's conviction, the Buckinghamshire Area Child Protection Committee and Buckinghamshire County Council jointly commissioned a serious case review. It was published in 2009, some four years later. Richard Nash explained that there were quality-assurance issues which led to a number of revisions and caused the substantial delay.<sup>223</sup> The serious case review was highly critical of both the headteacher and the deputy headteacher of the school, who were criticised for safeguarding failures in the way they dealt with Bulley, particularly in 2002 and 2004.<sup>224</sup> It is also clear from the serious case review that Buckinghamshire County Council failed in its safeguarding responsibilities, both at the time Bulley was appointed<sup>225</sup> and during a series of multi-agency meetings in 2002.<sup>226</sup>

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<sup>213</sup> BUC000048\_005 paras 31–32

<sup>214</sup> Richard Nash 9 October 2019 125/11-22

<sup>215</sup> Richard Nash 9 October 2019 107/11-21; BUC000048\_008 para 64

<sup>216</sup> RS-A7 9 October 2019 63/24-25

<sup>217</sup> RS-A7 9 October 2019 64/1-9

<sup>218</sup> RS-A7 9 October 2019 64/20-22

<sup>219</sup> INQ000570\_004; BUC000048\_010

<sup>220</sup> INQ000570\_004 para 1.2

<sup>221</sup> RS-A7 9 October 2019 67/22-68/14

<sup>222</sup> RS-A7 9 October 2019 60/22-61/9

<sup>223</sup> Richard Nash 9 October 2019 140/17-24

<sup>224</sup> INQ000570\_155-156 para 12.6

<sup>225</sup> Richard Nash 9 October 2019 88/1-10

<sup>226</sup> Richard Nash 9 October 2019 125/11-22

**67.** At the hearing in October 2019, Mr Nash acknowledged that Buckinghamshire County Council must take responsibility for “*what went wrong in the past in respect of their actions*”.<sup>227</sup> He stated that the “*lack of apology and frankness from Buckinghamshire County Council to date has been part of the myriad of problems*”.<sup>228</sup> Mr Nash said that he would take immediate steps to contact those involved to discuss an apology and any further support that might be needed.

**68.** When RS-A7 was contacted by the Inquiry in August 2020 and again in September 2021, he confirmed that Buckinghamshire County Council had not been in touch with him following the hearing.<sup>229</sup>

## Royal School Manchester

**69.** Royal School Manchester used to be called the Royal School for the Deaf, Manchester. At that point, it was primarily for deaf children. The school’s pupils now have a wide range of special educational needs and disabilities at the severe end of the spectrum. The majority of the children at the school have profound and multiple learning disabilities, as well as physical disabilities, and are unable to communicate verbally. A number of the children are both deaf and blind.<sup>230</sup> Ms Jolanta McCall, chief executive and principal of the Seashell Trust which runs the Royal School Manchester, explained that the school provides education and care for “*the most vulnerable children, who have very complex needs*”.<sup>231</sup>

**70.** The school provided information about its governance structure, relationships and sex education (RSE) curriculum, staff training and system for reporting safeguarding incidents which are considered in the later thematic chapters. The Inquiry also considered a non-recent incident at the school in order to examine how the barring authorities operated in the early 2000s.

**71.** In 2000, concerns were raised about RS-F3, a longstanding member of care staff at the school. The concerns were raised by a staff member during an investigation by the National Society for the Prevention of Cruelty to Children (NSPCC) in or around September 2000. These included allegations of sexually inappropriate behaviour – specifically, that he regularly showered naked with students in the school’s communal showers and that he assisted students with intimate personal hygiene.<sup>232</sup>

**72.** The police and the NSPCC conducted an investigation. In the course of this investigation, further allegations were made: that RS-F3 continued to shower with one student, despite an express request from the student’s mother that he cease this practice with her child; that he encouraged or condoned a practice where students were encouraged by staff members to masturbate; and that he failed to properly identify and report physical injuries which were sustained by another student at the school.<sup>233</sup>

**73.** In the course of interviews, RS-F3 did not deny the allegations against him and admitted that he had continued the practice of showering naked despite being asked not to. The NSPCC investigation found that: RS-F3 had showered naked with students from 1973 up to

<sup>227</sup> Richard Nash 9 October 2019 138/8-10

<sup>228</sup> Richard Nash 9 October 2019 139/13-16

<sup>229</sup> INQ006189; INQ006557; Richard Nash 9 October 2019 139/18-140/9

<sup>230</sup> Jolanta McCall 10 October 2019 142/19-144/20, 146/21-147/20

<sup>231</sup> Jolanta McCall 10 October 2019 144/5-6

<sup>232</sup> SST000042\_003-004 paras 1.2-1.3

<sup>233</sup> SST000042\_004-007 paras 1.4 and 1.6



1998, and had continued this practice when requested not to do so by a student's mother; he had failed to report physical injuries sustained by a student when he had received training to do so; he had a poor understanding of child protection processes; and he had failed to discharge his role and responsibilities as a team leader. The NSPCC also considered that RS-F3 had provided inadequate levels of care and protection for vulnerable children with complex needs and concluded that he was unsuitable to work with children and young people.<sup>234</sup>

**74.** An inter-agency strategy meeting took place in May 2001 to consider the NSPCC's findings. This was attended by the chief executive and head of care from the Seashell Trust and representatives from Greater Manchester Police, Stockport Metropolitan Borough Council and the NSPCC. The allegations were considered. A decision had been taken not to pursue criminal proceedings but the attendees agreed that RS-F3 should no longer be permitted to work with children and young people.<sup>235</sup>

**75.** RS-F3 was invited to a formal disciplinary hearing in August 2001 to discuss the allegations against him. He again admitted the allegations put to him. The disciplinary panel made three findings: that he had demonstrated sexually inappropriate behaviour by showering naked with students and assisting them with intimate personal hygiene; that he had continued this practice when requested not to by the mother of a student; and that he had failed to record and report physical injuries of another student. These were found to constitute gross misconduct and a decision was made to dismiss him.<sup>236</sup> The school notified both the Department for Education and Skills and the Department of Health of the circumstances of RS-F3's dismissal in order that a decision could be taken as to whether he should be prohibited from working with children.<sup>237</sup> Their decision-making process is examined in Part I.

## Appletree School

**76.** Appletree Treatment Centre (ATC) in Cumbria is made up of two schools (Appletree and Fell House) and three children's homes (Appletree, Fell House and Willow Bank) for up to 26 children between the ages of 6 and 12 years old.<sup>238</sup> The children in the residential accommodation attend one of the two schools, so children are both cared for and educated by ATC. All the children at ATC have experienced or witnessed violence or neglect and many will have been abused themselves. The pupils have social and emotional delays and behavioural issues are common. ATC estimates that in a typical year, 7 out of 10 children placed there will have been subjected to sexual abuse prior to their placement at ATC.<sup>239</sup> The children at ATC who demonstrate sexually harmful behaviour do so because that is what they have experienced and it seems normal to them. Many of the children at ATC have developmental delays which means they may act in a way that is appropriate for a toddler but would not be judged appropriate in an older child.<sup>240</sup>

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<sup>234</sup> SST000042\_006-009

<sup>235</sup> SST000062\_001-002

<sup>236</sup> SST000035\_002

<sup>237</sup> SST000022

<sup>238</sup> APP000064\_001 para 1

<sup>239</sup> Clair Davies 8 October 2019 6/7-9; APP000064\_013 para 49

<sup>240</sup> APP000064\_022

**77.** ATC reports a success rate of over 90 percent in helping traumatised children who have been excluded from other settings to find foster placements or return to their families and return to mainstream schooling.<sup>241</sup> The Inquiry considered safeguarding concerns which arose in 2006 when a child, RS-C1, was placed at ATC.

**78.** We heard evidence from RS-A6 (also referred to as RS-C2), who was a pupil at an ATC school between the ages of 6 and 10. In November 2006, when he was 9 years old, he was anally penetrated without his consent by a 12-year-old pupil (RS-C1), while they were absconding from school.<sup>242</sup> The Crown Prosecution Service declined to authorise any criminal charges against RS-C1. RS-A6 described to the Inquiry several incidents of sexually harmful and abusive behaviour between pupils at the school.<sup>243</sup>

**79.** RS-C1 was 10 years old when a placement at ATC was considered. His early life had been chaotic and abusive. His father had a previous conviction for a sexual offence against a young child and there had been concerns that RS-C1 had been sexually abused in a children's home that he had attended before starting at ATC.<sup>244</sup> Immediately prior to the placement decision at ATC, he had been excluded from a mainstream school he was attending because he had sexually abused a five-year-old boy in the toilets, and a report written at the time stated that he was developing "*a pattern of sexually abusive behaviours towards others*".<sup>245</sup> ATC agreed to the placement and put in place a risk assessment which stated that RS-C1 should not be left alone with younger children and that there was a risk to younger children from his highly sexualised behaviour.<sup>246</sup>

**80.** During the time RS-C1 was at ATC, incidents of harmful sexual behaviour between him and younger children occurred. RS-A6 said that he thought that there were many occasions when he had been involved in such incidents.<sup>247</sup> These incidents were described by RS-A6 as happening in the residential accommodation as well as when children absconded from the school site.<sup>248</sup> The fact that these incidents were happening in the residential accommodation became apparent only when a number of pupils were interviewed by the police following the anal penetration incident coming to light in November 2006.<sup>249</sup>

**81.** RS-C1 absconded on a regular basis between June and November 2005, and between September and November 2006, often with younger children, including RS-A6.<sup>250</sup> None of the children told staff during that period that harmful sexual behaviour was happening when the children were off-site.

**82.** On 31 October 2006, RS-C1's social worker recorded that he had told her on the telephone that there were only two boys in the unit that he felt he could "*trust himself*" with and that he was able to make children run off with him.<sup>251</sup> At that point RS-C1 was not attending school because he posed too much of a risk due to the frequent absconsions.<sup>252</sup> RS-C1's conversation with his social worker was reported to ATC staff at the time but the

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<sup>241</sup> Clair Davies 8 October 2019 6/1-6

<sup>242</sup> OHY006987\_002; RS-A6 7 October 2019 13/1-138/25

<sup>243</sup> RS-A6 7 October 2019 123/23-127/3, 129/2-25; APP000020\_002

<sup>244</sup> Clair Davies 8 October 2019 36/8-37/1

<sup>245</sup> Clair Davies 8 October 2019 37/5-6; BFC000070\_005

<sup>246</sup> APP000020\_002; APP000028\_001

<sup>247</sup> RS-A6 7 October 2019 146/15-23; CCC000009\_026-027

<sup>248</sup> APP000020\_002 para 3.1

<sup>249</sup> OHY006987\_012; OHY006987\_012, 014-015; Clair Davies 8 October 2019 42/18-45/16

<sup>250</sup> Clair Davies 8 October 2019 47/5-25

<sup>251</sup> BFC000043\_038

<sup>252</sup> BFC000043\_033



next day (1 November 2006) RS-C1 returned to school and absconded with two younger children (RS-C4 and RS-A6).<sup>253</sup> He absconded again on 9 November 2006 with RS-A6 and RS-C3,<sup>254</sup> which is when the harmful and abusive sexual behaviour took place which led to a police investigation, and which was described in RS-A6's evidence.

**83.** The sexual abuse which took place on 9 November 2006 was not disclosed by the pupils. It came to light because, on 22 November 2006, a member of staff overheard one of the children accusing RS-C1 of "fucking" RS-C3 and RS-A6 agreeing that he had.<sup>255</sup> ATC staff interviewed the children on 23 November 2006 and informed the local authority on 24 November 2006.<sup>256</sup> The local authority and the police both expressed concern that the incident had not been reported sooner and that the children had been interviewed by ATC staff.<sup>257</sup>

**84.** The Crown Prosecution Service decided to take no further action. It was stated that this was because: RS-C1 had admitted the offences; there were discrepancies in the accounts; the young ages and damaged backgrounds of the children involved; and the school 'interviewing' the children and contaminating the evidence.<sup>258</sup> The Crown Prosecution Service stated that, because of the way the school had gathered evidence from the pupils, the court would have "*thrown it out anyway, if it had gone that far*".<sup>259</sup>

**85.** Mrs Clair Davies, principal of ATC since 1995, thought that RS-C1's sexually abusive behaviours had worsened, or had been triggered, after he made a disclosure in October 2006 that his father had sexually abused him when he was a small child but this had not immediately been followed up by his home local authority, Bradford Metropolitan District Council (MDC).<sup>260</sup> No strategy meeting was held<sup>261</sup> because, as Ms Rachel Curtis, a social worker of Bradford MDC, recalled, strategy meetings were not typically held at that time for children in care.<sup>262</sup>

**86.** RS-C1 was interviewed under caution later in November 2006 and never returned to ATC.<sup>263</sup> RS-A6 does not remember being told what had happened to RS-C1.<sup>264</sup> Soon after these events, RS-A6 moved to a foster home where he disclosed the sexually abusive behaviour at ATC.<sup>265</sup> RS-A6 told the Inquiry that the support he had received at his foster placement meant that he could talk for the first time about this.<sup>266</sup>

**87.** The Inquiry also heard evidence concerning the measures taken to prevent children absconding from ATC in 2006 and subsequently. There is an increased risk of harmful sexual behaviour occurring when pupils abscond.<sup>267</sup> In the year following the disclosure in November 2006, there were 11 occasions when children absconded.<sup>268</sup> In 2013, the

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<sup>253</sup> APP000012\_002

<sup>254</sup> APP000012\_002

<sup>255</sup> Clair Davies 8 October 2019 55/19-22; BFC000070\_005

<sup>256</sup> APP000020\_002 para 2.1

<sup>257</sup> APP000020\_001-002

<sup>258</sup> CCC000007\_089

<sup>259</sup> CCC000007\_089

<sup>260</sup> Clair Davies 8 October 2019 40/25-41/5

<sup>261</sup> Rachel Curtis 8 October 2019 108/6-11

<sup>262</sup> Rachel Curtis 8 October 2019 96/2-21

<sup>263</sup> Rachel Curtis 8 October 2019 112/19-113/24

<sup>264</sup> RS-A6 7 October 2019 141/3-7

<sup>265</sup> CCC000009\_026-027

<sup>266</sup> RS-A6 7 October 2019 146/25-147/7

<sup>267</sup> Clair Davies 8 October 2019 48/4-6

<sup>268</sup> Clair Davies 8 October 2019 63/14-21

Department for Education commissioned an emergency inspection from Ofsted, in part to look at an incident where a pupil had absconded and had been at risk.<sup>269</sup> The inspection was critical of the approach of “*watch from a distance*” to allow pupils to “*cool off*”.<sup>270</sup>

**88.** As a result of the emergency inspection an action plan was put in place and an independent review commissioned. Following this, fences around the site were raised.<sup>271</sup> No children absconded from the site in the six years from 2013 to 2018. There was then a one-off incident in January 2019.<sup>272</sup> Ms Davies said in her statement that the raising of the fence in particular had been effective and in retrospect she wished ATC had acted earlier.<sup>273</sup> In evidence, she described that she had not wanted the school “*to look like a prison*” and that this had been a factor against taking action at the time.<sup>274</sup>

## Stanbridge Earls School

**89.** Stanbridge Earls School was a co-educational day and boarding secondary school. It specialised in teaching pupils with specific learning difficulties. It described itself as a specialist boarding school, rather than as a residential special school. The system for inspecting and regulating schools does not recognise the designation specialist boarding school.

**90.** The school closed on 1 September 2013, following publicity from a First-tier Tribunal (Special Educational Needs and Disability) case which found that a female pupil with special educational needs had been discriminated against after she had complained of a serious sexual assault. During the proceedings, the headteacher appeared not to accept that a child reporting non-consensual sexual intercourse was making an allegation of rape. The tribunal found that staff and trustees had failed to recognise that the school had safeguarding responsibilities which were heightened by the potential vulnerabilities of their students, in particular the girls. The needs of the pupils admitted to the school had become more complex over time and the headteacher had little experience of pupils with special educational needs.<sup>275</sup>

**91.** In 2015, a former pupil, Gareth Stephenson, was convicted and given a suspended sentence for 11 sexual offences against younger boys, including 3 boys who had been pupils with him at the school. Stephenson had sexually abused fellow pupils between 2002 and 2006.<sup>276</sup> RS-A189 gave evidence to the Inquiry about how he was sexually abused by Stephenson whilst at the school and the attempts he had made to tell staff about the sexual abuse at the time.

**92.** Following the tribunal proceedings, a serious case review was commissioned by the Hampshire local safeguarding children’s board. It focussed on events from 2012. The report was highly critical of the failure of the school to protect vulnerable girls with special educational needs from sexualised bullying. It set out that the school had failed to realise that sexual activity between children might raise concerns and that crimes may have been committed.<sup>277</sup>

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<sup>269</sup> APP000064\_034 para 132

<sup>270</sup> APP000057\_002

<sup>271</sup> APP000059\_002

<sup>272</sup> Clair Davies 8 October 2019 49/23-50/1

<sup>273</sup> APP000064\_035 para 135

<sup>274</sup> Clair Davies 8 October 2019 67/24-25

<sup>275</sup> HSB000011\_025 paras 6.1.13–6.1.14

<sup>276</sup> HSB000011\_036-037

<sup>277</sup> HSB000011\_062 para 8.3

**93.** There was confusion at the time, which persisted until the hearing, about whether the school was a boarding school which took some pupils with special educational needs or a residential special school.<sup>278</sup> The distinction has implications for safeguarding, oversight, and external inspection and monitoring. Pupils in residential special schools are at heightened risk of sexual abuse due to their disabilities and special educational needs and require experienced and trained staff. Boarding schools are not subject to the same degree of oversight as residential special schools and are inspected less frequently, against different standards.

## Southlands School

**94.** Southlands School is an independent special school for children who primarily have autism without associated learning disabilities. It includes day pupils as well as boarders. At the time of the hearing, there were 57 students, 39 of whom were boarders.<sup>279</sup> The residential element is provided by a children's home which is separate from the school. Whilst the school is registered to provide education for children between the ages of 7 and 19, the majority of students are between the ages of 12 and 14.<sup>280</sup> Ms Karen Gaster, the executive principal of the school, explained that young people with autism have the same socio-sexual interests and needs as any other young people but their communication and social deficits impact negatively upon their ability to engage in social and sexual interactions and increase the possibility of inappropriate sexualised behaviours.<sup>281</sup>

**95.** Southlands School provided the Inquiry with information about 56 incidents between February 2007 and October 2016 which had been recorded by the school as 'causes for concern'. These were logged observations, third-party auditory accounts or verbal disclosures reported by staff and/or pupils to the DSL or deputy DSL of unexpected behaviours of a sexual nature which had been followed up in accordance with the school's safeguarding policy.<sup>282</sup> Of the 56 incidents, only one related to peer-on-peer harmful sexual behaviour.<sup>283</sup> A number of the incidents related to young people accessing inappropriate websites or displaying overly sexualised behaviours.

**96.** Ms Gaster gave evidence about the challenges the school faces in respect of the internet or social media and sexualised behaviour at school. She explained that, within the past five years, the issues surrounding inappropriate access to and sharing of offensive sexualised materials have become increasingly problematic to manage as the skill set of the young people has increased.<sup>284</sup> She described a number of key challenges, such as lack of parental understanding about providing students with devices with 4G capability,<sup>285</sup> striking the balance between protecting young people without depriving them of their liberties<sup>286</sup> and the fact that the difficulties experienced by many schools in respect of mental health issues and social media are magnified in a setting where many young people share similar traits,

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<sup>278</sup> Derek Benson 9 October 2019 155/10-156/4

<sup>279</sup> Karen Gaster 9 October 2019 4/1-3

<sup>280</sup> Karen Gaster 9 October 2019 4/12-14

<sup>281</sup> SLS000108\_031 para 113

<sup>282</sup> SLS000108\_006-007 para 26

<sup>283</sup> SLS000108\_035 para 126

<sup>284</sup> SLS000108\_029 para 108

<sup>285</sup> SLS000108\_025 para 97.1

<sup>286</sup> SLS000108\_025 para 97.3

difficulties and issues.<sup>287</sup> She explained that it would not be unusual for a young person with autism who had accessed a highly inappropriate pornographic website not to understand why the site should be censored.<sup>288</sup>

97. Ms Gaster told the Inquiry that she had concerns about how easy it was for young people to access the dark web and accepted that the school (as well as wider society) was not able to keep pace with technology and the children's use of technology:

*"the children always seem to be one step ahead of us, no matter sort of how much infrastructure you put in place, how much education, they kind of circumvent the measures, the physical measures, we're putting in place".<sup>289</sup>*

## B.4: Clifton College, Headlands School and Hillside First School

98. In the Phase 2 hearing, the Inquiry heard evidence relating to incidents of child sexual abuse and related concerns in three schools: Clifton College, an independent boarding school; Headlands School, a maintained day secondary school; and Hillside First School, a maintained infant school.

### Clifton College

99. Clifton College is an independent boarding school in Clifton, Bristol. It has a nursery for children aged 2 to 4, a pre-preparatory school for children aged 4 to 8 and a preparatory school for pupils aged 8 to 13 (collectively known as the Prep School) as well as an Upper School for girls and boys from 13 to 19.<sup>290</sup> Clifton College offers boarding for pupils from the age of 8, although over two-thirds of its 1,240 pupils are day pupils.<sup>291</sup> There are 211 international students at the school, most of whom are in the Upper School.<sup>292</sup>

### Stephen Johnston

100. In 2008, a former teacher, Stephen Johnston, was convicted by a jury and sentenced to seven years' imprisonment for indecent assault and buggery of a pupil in the early 1990s. Johnston taught French at the Prep School from 1988 to 1994. He groomed the pupil, RS-A336, inviting him to his flat to drink beer and watch pornographic videos, before gradually subjecting him to increasingly serious sexual abuse. The abuse took place over several years, beginning when RS-A336 was 13 and ending when he was 16. RS-A336 did not tell anyone at Clifton College about the abuse.<sup>293</sup> Complaints were made about Johnston by other staff in the early 1990s. In 1993, the headteacher received a letter from a staff member and neighbour of Johnston, complaining about the number of teenage boys going in and out of Johnston's flat, which was called a "den of vice". The headteacher responded by

<sup>287</sup> SLS000108\_026 para 97.4

<sup>288</sup> SLS000108\_026 para 99

<sup>289</sup> Karen Gaster 9 October 2019 48/7-13

<sup>290</sup> CFC000486\_007 para 17

<sup>291</sup> CFC000391

<sup>292</sup> CFC000486\_057 para 213

<sup>293</sup> CFC000157

letter that “*what happens in a private house which is not part of the School is really nothing to do with me as Headmaster, nor, I suppose ... [to] a member of Council*”<sup>294</sup> (the College Council was the governing body of the school).<sup>295</sup>

**101.** The criminal trial of Johnston was monitored by the insurers of Clifton College. The headteacher, Mr Mark Moore, issued a press release upon Johnston’s conviction condemning his behaviour.<sup>296</sup> No review of safeguarding or other action was taken at that time. The school did not make contact with the local authority or the barring authorities regarding the case. A civil claim by RS-A336 against Clifton College was settled out of court in 2012.<sup>297</sup>

### *Jonathan Thomson-Glover*

**102.** In August 2015, Jonathan Thomson-Glover pleaded guilty to 36 offences related to making or possessing indecent images of children. He was sentenced to three years and nine months’ imprisonment and was ordered to sign the sex offenders register on an indefinite basis. Thomson-Glover had taught German at Clifton College Upper School since 1990, and since 1997 had been the housemaster of a day house for boys aged 13 to 18 (House 1).<sup>298</sup>

**103.** Between 1998 and 2014, Thomson-Glover filmed Clifton College students without their knowledge, using cameras hidden in the showers, toilets and study rooms of House 1, and also in the bathroom of his holiday home in Cornwall, where he invited groups of House 1 boys for trips during school holidays. Thomson-Glover recorded footage of the boys in states of undress: showering, using the toilet, masturbating and sometimes engaged in sexual activity with female students.<sup>299</sup>

**104.** Thomson-Glover came to the attention of the police as a result of a National Crime Agency investigation which identified that he had shared indecent images of children online. He was arrested on 5 August 2014 and his homes were searched and computers analysed. As well as indecent images of children that he had accessed online and downloaded, police found 330 video tapes containing 2,500 hours of footage of Clifton College students who had been filmed covertly (which did not appear to have been shared online).<sup>300</sup>

**105.** The police informed the headteacher and the relevant LADO of the circumstances of Thomson-Glover’s arrest. Thomson-Glover resigned from the school the next day.<sup>301</sup> The headteacher, Mr Moore, told parents of House 1 boys by letter on 15 August 2014 that Thomson-Glover had resigned for “*personal reasons*”,<sup>302</sup> although he was well aware that the reason for the resignation was because he had been arrested for offences relating to indecent images of children.

**106.** During strategy meetings, safeguarding professionals from the local authority, the ISI and the police expressed concerns about the safeguarding regime at Clifton College. As a result, the school’s governing body, the College Council, agreed to relieve the headteacher and the DSL of their safeguarding roles and to undertake a detailed review of safeguarding at

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<sup>294</sup> CFC000042\_002-003

<sup>295</sup> Tim Greene 17 November 2020 71/1-72/8

<sup>296</sup> CFC000163

<sup>297</sup> CFC000486\_015 paras 49-52

<sup>298</sup> CFC000386\_003

<sup>299</sup> CPS004907\_004-006

<sup>300</sup> CFC000386\_003

<sup>301</sup> Mark Moore 18 November 2020 35/9-20

<sup>302</sup> BSC000202\_001

the school.<sup>303</sup> In September 2015, Mr Moore agreed to resign, leaving in December 2015.<sup>304</sup> He faced no disciplinary action.<sup>305</sup> He was eventually referred to the National College for Teaching and Leadership in August 2017.<sup>306</sup>

**107.** After Thomson-Glover was sentenced for the offences at Clifton College, police received allegations from two former pupils of the school where he had taught before Clifton College. When they were both about 12 years old, in around 1989/1990, Thomson-Glover took the boys on a trip to his Cornwall holiday home, where he masturbated in front of the two boys and encouraged them to masturbate in his presence. In the summer of 2016, Thomson-Glover pleaded guilty to four offences of indecency with children in relation to these incidents of sexual abuse<sup>307</sup> and received a further sentence of six months' imprisonment concurrent to the sentence he was serving for the offences at Clifton College.<sup>308</sup>

**108.** In 2016, the governing body of the school commissioned an independent review to investigate the conduct of Thomson-Glover during his time at Clifton College and to assess the effectiveness of the safeguarding regime at the school. The report by Penny Jones (former Deputy Director of Independent Education and School Governance at the Department for Education) was published in August 2016. It was critical of the safeguarding arrangements at the school, identifying failures to appropriately report or act on concerns about the conduct of Thomson-Glover. The report concluded that the governors of the school had failed to exercise effective oversight of safeguarding and had failed to hold the headteacher to account.<sup>309</sup>

## Headlands School

**109.** Headlands School is a large secondary school in Bridlington, which had a student population in the early 2000s of around 1,400 boys and girls aged 11 to 18. It is under the control of the local authority, the East Riding of Yorkshire Council.<sup>310</sup> Mr Anthony Halford was the headteacher from 1991 until his retirement in 2004. Dr Stephen Rogers took over as headteacher from September 2004 to October 2008. Between 2006 and 2009, four members of staff were convicted of sexual offences against pupils at the school, committed between 2001 and 2008.

### Steven Edwards

**110.** In February 2007, Steven Edwards was convicted of a number of sexual offences against three female pupils between 2001 and 2003. Edwards had been appointed as a science teacher at Headlands School in around 1996.<sup>311</sup> He resigned from the school in April 2004 to teach at a different school<sup>312</sup> but returned to teach at Headlands School for six weeks on a temporary basis in February 2005.<sup>313</sup>

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<sup>303</sup> CFC000480\_023 para 92

<sup>304</sup> CFC000480\_024 para 94

<sup>305</sup> Nick Tolchard 17 November 2020 109/23-110/4

<sup>306</sup> CFC000486\_037 para 139

<sup>307</sup> CPS004900

<sup>308</sup> CPS004905

<sup>309</sup> CFC000016\_036-037 finding 4

<sup>310</sup> INQ005532\_001 para 3

<sup>311</sup> Anthony Halford 19 November 2020 18/6-7

<sup>312</sup> HEA000803

<sup>313</sup> Stephen Rogers 19 November 2020 57/7-13



**111.** Edwards sexually abused RS-A309 when she was 15. He gave her his personal email address when she was 14 and after messaging each other for a period of time they began meeting up outside school when she was 15. Sexual activity took place in his car, progressing from kissing to penetrative sexual activity and intercourse.<sup>314</sup> The parents of RS-A309 became suspicious about their daughter's contact with Edwards and confronted him one weekend. Edwards contacted the headteacher, Mr Halford, saying that the parents of RS-A309 wanted to go to the police. Mr Halford arranged for a meeting to take place at his home between the parents and Mr and Mrs Edwards.<sup>315</sup> At the meeting, the parents told Mr Halford that Edwards had kissed their daughter.<sup>316</sup> Mr Halford told the parents of RS-A309 that Edwards would no longer teach their daughter and they would not have contact in school.<sup>317</sup> Mr Halford did not place any notes about the allegations or the meeting on Edwards' file. The incident was not referred to the local authority or any other outside agencies.<sup>318</sup>

**112.** Edwards targeted RS-A312 when she was 13 years old, giving her his email address and encouraging her to contact him. They communicated for six months before Edwards arranged to meet her outside school. From 2002, when RS-A312 was 14, Edwards regularly sexually abused her in his car, rapidly progressing from kissing and touching to engaging in sexual intercourse. The sexual abuse often took place in Edwards' car but also on several occasions in the disabled toilets at Headlands School.<sup>319</sup> No concerns regarding Edwards' conduct towards RS-A312 appear to have been raised at the school at the time.

**113.** Edwards first arranged to meet RS-A307 outside school one weekend in November 2003 when she was 14, having communicated with her for some time over MSN instant messenger. They went jogging together to a secluded area where Edwards kissed her.<sup>320</sup> The mother of RS-A307 was very concerned that her daughter was attempting to meet a teacher outside of school and made a referral to the local authority. A few days later a strategy meeting was convened, which was attended by the headteacher, Mr Halford. The local authority strongly advised Mr Halford to suspend Edwards pending the investigation but he declined to do so.<sup>321</sup> The police spoke to Edwards at the school. Both RS-A307 and Edwards denied any improper contact and no further action was taken at that time.<sup>322</sup>

### *Ian Blott*

**114.** Ian Blott was the head of art at Headlands School, having joined the school as an art teacher in 1973. In October 2005, Blott told the headteacher, Dr Rogers, that he had been in an inappropriate sexual relationship for some time with a sixth-form pupil, RS-A303. RS-A303's mother had discovered the abuse and told Blott that if he did not tell the headteacher about the sexual abuse she would report him to the police.<sup>323</sup> Dr Rogers suspended Blott and notified the local authority, and a criminal investigation commenced which eventually led to Blott's prosecution and conviction.<sup>324</sup> In 2006, Blott pleaded guilty to

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<sup>314</sup> CPS004978\_003 para 14

<sup>315</sup> Anthony Halford 19 November 2020 22/1-10

<sup>316</sup> Anthony Halford 19 November 2020 22/13-23

<sup>317</sup> Anthony Halford 19 November 2020 22/5-23/3

<sup>318</sup> HEA000322\_004 para 5.9

<sup>319</sup> CPS004978\_003 para 13

<sup>320</sup> CPS004978\_003 para 12

<sup>321</sup> HEA000073; Anthony Halford 19 November 2020 24/17-25

<sup>322</sup> Anthony Halford 19 November 2020 25/2-21

<sup>323</sup> Stephen Rogers 19 November 2020 43/3-24

<sup>324</sup> Stephen Rogers 19 November 2020 45/7-13

engaging in sexual activity with RS-A303 when she was under 16 years of age and engaging in sexual activity whilst in a position of trust in relation to RS-A303 when she was over 16. He was sentenced to four years' imprisonment.<sup>325</sup>

**115.** Blott had begun paying special attention to RS-A303 in art classes when she was 14. Blott first had sex with her when she was 15, on a school trip. For over two years, until October 2005, Blott met RS-A303 regularly outside school and engaged in sexual activity with her.<sup>326</sup> On several occasions, Blott also kissed RS-A303 and touched her sexually in the art cupboard at Headlands School.

**116.** In November 2004, a friend of RS-A303 told the head of sixth form that RS-A303 was in an inappropriate relationship with Blott. This was reported to the headteacher, Dr Rogers. RS-A303 was questioned by the head of sixth form but did not make a disclosure of sexual abuse at that time. Dr Rogers did not refer the allegation to the local authority.<sup>327</sup> Blott continued to sexually abuse RS-A303 until her mother became aware of the abuse in October 2005, leading to Blott's confession to Dr Rogers and his arrest.

**117.** During the police investigation into Blott, two former pupils of Headlands School came forward with information. RS-A332 told police that, in 2000–2001, when she was in the sixth form, Blott had sent sexually explicit text messages to her and touched her bottom several times in class. She told a female teacher, who did not report the behaviour. RS-A332 decided to ignore Blott as she did not want any problems with her A-levels.<sup>328</sup> RS-A328 had been targeted by Blott in the 1980s, when she was studying A-level art at Headlands School. Blott first had sex with her on a school trip, after which they regularly met up outside of school and engaged in sexual activity over a period of two years. Blott was controlling and possessive and whenever RS-A328 tried to have relationships with boys her own age he penalised her by giving her art work low grades.<sup>329</sup>

**118.** While Blott was on remand awaiting trial, he gave the police the names of several current and former members of Headlands School staff whom he alleged may have engaged in sexual activity with children at the school. Fourteen staff or former staff of Headlands School were investigated by Humberside Police, including Steven Edwards, as well as two former Headlands School teachers who had gone on to teach at other schools where they committed sexual offences against pupils.

**119.** Concerns about the safeguarding regime at Headlands School caused the East Riding of Yorkshire Safeguarding Children Board to commence a major enquiry in January 2006, which published its final report in April 2008.<sup>330</sup> It found deficiencies in safeguarding at the school under the leadership of the former headteacher, Mr Halford. It also made 11 recommendations to strengthen safeguarding in East Riding schools and to improve multi-agency working where allegations were made against staff.

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<sup>325</sup> CPS004978\_002 para 6

<sup>326</sup> CPS004978\_001 para 4

<sup>327</sup> ASC000010\_010 para 29; Stephen Rogers 19 November 2020 49/7-16

<sup>328</sup> CPS004978\_002 para 7

<sup>329</sup> CPS004978\_002 para 8

<sup>330</sup> HEA000404



### *Lindsey Collett*

**120.** In February 2008, Lindsey Collett, a cover supervisor at Headlands School, was arrested following a disclosure made to the headteacher. Dr Rogers referred the matter to the local authority and suspended Collett.<sup>331</sup> RS-A301 had been groomed for some months by Collett, who had offered to give him additional tuition after school hours. She gave RS-A301 lifts home and on at least one occasion hugged and kissed him in her car. In August 2008, Collett pleaded guilty to sexual activity with a child in abuse of a position of trust in respect of kissing RS-A301 and she received a conditional discharge of 12 months.<sup>332</sup>

### *Christopher Reen*

**121.** Another cover supervisor at the school, Christopher Reen, was arrested in October 2008, following the school's referral of an allegation to the LADO. Reen ran a sports club in Bridlington attended by some Headlands School pupils, including RS-A302. Reen obtained RS-A302's phone number from her registration records at the club. He contacted RS-A302 and arranged to meet her during the school summer holidays in 2008. Sexual activity first took place in his car, and continued for three or four months, quickly progressing from kissing to full sexual intercourse at his home and at the sports club. It was evident from sexually explicit text messages and photographs Reen sent to RS-A302 that he had first had sex with her when she was 15 years old.<sup>333</sup>

**122.** In October 2008, a friend of RS-A302 became aware of the abusive relationship and reported her concerns to a member of staff at the school, who reported the allegation to the headteacher. Dr Rogers immediately referred the matter to the LADO and the police interviewed RS-A302 the following day.<sup>334</sup> In June 2009, Reen pleaded guilty to an offence of sexual activity with a child by a person in a position of trust, relating to sexual activity when RS-A302 was 16, but denied that he had engaged in sexual activity before she had turned 16. He eventually pleaded guilty in February 2010 to 6 counts of sexual activity with a child, relating to sexual abuse when RS-A302 was 15 years old. He was sentenced to 40 months' imprisonment.<sup>335</sup>

### **Hillside First School**

**123.** Hillside First School was a maintained infant school for children aged from four to eight. The Inquiry considered the period between 1995 and 2010, when Nigel Leat taught at the school. During this period, the school had around 120 pupils, 6 teachers and 3 teaching assistants. Between 1995 and 2001, the headteacher was Ms Susan Bolt. Between 2001 and 2011, the headteacher was Mr Christopher Hood. Ms Michelle Bamford was appointed as deputy headteacher in 2003.

**124.** Leat began teaching at the school in 1995. From at least 2003, and almost certainly earlier, Leat was known to have "favourites", pupils whom he favoured and would allow to carry out tasks for him.<sup>336</sup> At least 10 members of staff gave evidence to the police following Leat's arrest that it was "common knowledge" that he had favourites. A teacher who started work at the school in around 2006 stated during her police interview:

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<sup>331</sup> Stephen Rogers 19 November 2020 79/10-18

<sup>332</sup> CPS004978\_005 paras 25-27

<sup>333</sup> CPS004978\_005 paras 29-30

<sup>334</sup> Stephen Rogers 19 November 2020 82/24-83/14

<sup>335</sup> CPS004978\_006 paras 32-33

<sup>336</sup> OHY009387\_025, 034; OHY009388\_004, 007; OHY009388\_009-011, 016, 020, 024; OHY009386\_015

*“Since I joined the school it seemed to always be known and common knowledge that Nigel had favourite pupils. It was something that was often commented on by staff and even the dinner ladies. It did cause me some concern but as it was going on already when I joined the school I felt that it was just common knowledge and accepted.”<sup>337</sup>*

**125.** Leat was well liked by children and parents. RS-H2, the mother of RS-A320 who was sexually abused by Leat, said that at the time she thought he was “*amazing*” and that “*I thought he was – he still is probably the best teacher she’s ever had*”.<sup>338</sup> Michelle Bamford, deputy headteacher at the school, stated that “*Leat manipulated everyone to think he was a ‘nice, easy-going’, disorganised, slightly chaotic, ‘techno-phobe’ who loved working with children and helping them develop*”.<sup>339</sup>

**126.** In April 2004, RS-H4 reported to Ms Bamford that a friend had told her that Leat had shown a picture of a naked man in a lesson and had told the children not to tell their parents about it. She also told Ms Bamford that she thought that Leat was too tactile with the children in his class. Ms Bamford made a note of these concerns and reported them to the headteacher, Mr Hood.<sup>340</sup> An investigation concluded that the image of the naked person was present on all the laptops in the school as it had been part of a PSHE lesson plan for older primary students. Mr Hood spoke to Leat about the concern that he was too tactile with the pupils. Both Mr Hood and Ms Bamford agreed when giving evidence that the concern that Leat was too tactile with female pupils had not been properly considered at the time.<sup>341</sup> In May 2004, RS-H4 followed up on her concerns. She wanted to ask that her relative should not be placed in Leat’s class. She again said that she thought that Leat was “*too tactile*”<sup>342</sup> with the children in his class, particularly the girls, and that he had been giving special attention to one girl in his class. Mr Hood again spoke to Leat and issued a verbal warning.<sup>343</sup>

**127.** Also in the 2003/04 school year, a teacher reported to Mr Hood that she had found between 15 and 20 photographs of Leat some of which showed Mr Leat in close physical contact with a pupil.<sup>344</sup> No formal record of this concern was made and no action was taken by the headteacher.<sup>345</sup>

**128.** In the 2004/05 school year, a pupil in Leat’s class informed her mother that Leat had taken a picture of her and her friend on his mobile phone. No formal record was made of this concern. The headteacher spoke to Leat, who denied that he had taken a photograph on his phone. He did not speak to the children. The headteacher then invited the mother to speak to Leat. No further action was taken.<sup>346</sup>

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<sup>337</sup> OHY009387\_025

<sup>338</sup> RS-H2 20 November 2020 36/8-15

<sup>339</sup> NAH000009\_004 para 9; Michelle Bamford 23 November 2020 83/16-25

<sup>340</sup> DFE003202

<sup>341</sup> Christopher Hood 20 November 2020 117/17-118/7; Michelle Bamford 23 November 2020 87/2-25

<sup>342</sup> DFE003202\_001

<sup>343</sup> DFE003202\_002

<sup>344</sup> DFE002193\_002-003

<sup>345</sup> OFS011782\_023

<sup>346</sup> OFS011782\_010-011

**129.** At either the end of the school year 2005/06 or during 2006/07, a voluntary classroom assistant saw Leat sitting on a bean bag reading with a child and when he stood up he had an erection. She felt she could not report the incident to the headteacher and that there was a lack of interest from a teacher at the school when she pointed out that a child was sitting on Leat's lap, so she felt there was no point reporting what she had seen.<sup>347</sup>

**130.** During a lesson in the 2006/07 school year, the headteacher was observing one of Leat's lessons and saw a child sitting in front of Leat with her hands up his trouser legs stroking the bottom part of his legs. The headteacher spoke to Leat about this after the lesson but did not make a formal record of it, talk to the child or inform the child's parents.<sup>348</sup>

**131.** In the 2007/08 school year, a number of concerns were raised in relation to Leat's interactions with RS-A320.<sup>349</sup> Five different people expressed concerns about how close Leat was to RS-A320 and how he treated her as a favourite, allowing her, for example, to add the marks to exam papers taken by her class. As a college tutor visiting a trainee teacher in the school observed, and as was described on the record, "*the relationship between RS-A320 and Nigel Leat was a bit close for comfort*".<sup>350</sup> Ms Bamford made a written record of the concerns, which she gave to Mr Hood. He decided not to discuss the matter with the LADO. Instead, he discussed the concerns with Leat and gave him a verbal warning.<sup>351</sup> In evidence, Mr Hood said that previous headteachers had taken that approach and he followed their example.<sup>352</sup>

**132.** RS-A299 said that in the 2008/09 school year she went to see Mr Hood to tell him that "*something was happening*" with RS-A346 and that RS-A346 had been sick. She did not tell him that Leat had tried to kiss RS-A346, as she had promised her friend she would not tell.<sup>353</sup> No formal record was made of this concern. Mr Hood did not remember RS-A299 and RS-A346 coming to see him.<sup>354</sup>

**133.** In the autumn term of the 2010/11 school year, a teaching assistant informed Ms Bamford that a child in Leat's class (RS-A300) had been stimulating herself by rubbing her genitals on the carpet.<sup>355</sup> Ms Bamford informed the headteacher that she was monitoring the situation. No formal record was made and the child's mother was not informed.<sup>356</sup>

**134.** In December 2010, RS-H1 contacted the police to say that her daughter, RS-A300, had told her that her teacher, Leat, had been touching her on her "*private parts*".<sup>357</sup> This disclosure led to the arrest of Leat at the school and a major police investigation. The police discovered video evidence of the sexual abuse of young girls at Leat's house. He had memory sticks which contained 30,500 internet images which were classed as indecent, 454 video clips which he had filmed himself and 740 video clips he had downloaded from the internet.<sup>358</sup>

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<sup>347</sup> OHY009387\_029-030

<sup>348</sup> OFS011782\_012

<sup>349</sup> DFE003202\_003

<sup>350</sup> DFE003202\_003-004

<sup>351</sup> DFE003202\_004

<sup>352</sup> Christopher Hood 20 November 2020 125/16-23

<sup>353</sup> RS-A299 20 November 2020 16/12-16, 17/17-19/1

<sup>354</sup> Christopher Hood 20 November 2020 147/18

<sup>355</sup> Michelle Bamford 23 November 2020 90/18-92/7

<sup>356</sup> OFS011782\_015-016

<sup>357</sup> RS-H1 20 November 2020 80/14

<sup>358</sup> ASP000483\_004

**135.** The original video footage filmed by Leat showed him sexually abusing young girls in various locations in the school. They were recorded between September 2006 and July 2010. The witness statement of Mr Gregor McGill of the Crown Prosecution Service stated “*It appeared that in each academic year Nigel Leat selected a different girl to sexually abuse*”.<sup>359</sup> Each video depicted one girl being sexually abused. The abuse consisted variously of Leat rubbing the girl’s genitals or buttocks over and under their underwear, digital vaginal penetration, attempted oral penetration (of RS-A320) and in the case of child D, masturbating Leat to the point of ejaculation.<sup>360</sup> The youngest victim was six years old.

**136.** Leat was charged with 36 sexual offences, including 1 count of attempted rape of a child under 13, 8 counts of sexual assault of a child under 13 by penetration and 23 counts of sexual assault of a child under 13 with no penetration.<sup>361</sup> In May 2011, Leat pleaded guilty to all 36 counts. Following a court appearance in June 2011, Leat was given an indeterminate prison sentence for public protection, with a minimum term of eight-and-a-half years in prison before he could be considered for release on licence.<sup>362</sup>

**137.** Mr Hood was suspended in January 2011 and dismissed for gross misconduct in November 2011.<sup>363</sup> Ms Bamford was not suspended and was issued with a formal written warning in November 2011.<sup>364</sup>

**138.** The North Somerset Safeguarding Children Board commissioned a serious case review following the arrest of Leat,<sup>365</sup> focussing on the period 2000 to 2010. Its January 2012 report noted that there were at least 30 incidents of inappropriate or unprofessional conduct involving Leat which should have been viewed as suspicious.<sup>366</sup> The serious case review stated that it was significant that only 11 of the incidents were reported to either Ms Bamford or Mr Hood.<sup>367</sup>

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<sup>359</sup> CPS004917\_002 para 8

<sup>360</sup> CPS004917\_002 para 10

<sup>361</sup> ASP000483\_006

<sup>362</sup> CPS004917\_004 para 18

<sup>363</sup> Christopher Hood 20 November 2020 107/20-108/2

<sup>364</sup> Michelle Bamford 23 November 2020 62/1-6

<sup>365</sup> DFE002197\_002 para 1

<sup>366</sup> DFE002197\_007 para 26

<sup>367</sup> DFE002197\_008 para 27



Part C

# Boarding schools

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# Boarding schools

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## C.1: Introduction

1. In this investigation, mainstream schools where all or some of the pupils reside overnight during term time are referred to as boarding schools. Pupils may return home for some or all weekends, or only during the school holidays. Most boarding schools now also educate day pupils. Some boarding schools offer ‘flexi-boarding’, where children may reside at the school for just one or two nights a week, or a fixed number of days in a year. Many offer extended days for day pupils, who may be permitted to arrive early and stay late to participate in extracurricular activities or study time. The majority of boarding schools in England are independent (fee-paying) schools. There are 31 state-funded boarding schools which charge fees for their boarding element only. All boarding schools in Wales are independent schools (further details about the different types of schools in England and Wales, and the numbers of boarders, is set out in Part A).

2. During this investigation, the Inquiry considered child sexual abuse and safeguarding concerns at 10 boarding schools.

2.1. The closed residential schools account submitted by Counsel identified a number of complaints of sexual abuse which occurred at four boarding schools in England in the 1970s, 1980s and 1990s: Ashdown House, Sherborne Preparatory School and St George’s School, which became Dalesdown School.<sup>368</sup> These were independent preparatory schools for pupils between the ages of 8 and 13. A teacher at Ashdown House, Martin Haigh, was convicted of sexual offences against four boys aged 7 to 12 years old who boarded at the school during the 1970s. Allegations were also made against other staff which did not result in convictions.<sup>369</sup> St George’s School and later Dalesdown School were owned and run by the headteacher, Derek Slade. Slade severely beat, sexually assaulted and raped boys in his care. In 2010, Slade was sentenced to 21 years’ imprisonment for sexual offences committed in the 1980s against 12 pupils. Two other teachers at St George’s School, Alan Bridgen and Gerald Singer, also sexually assaulted and raped boys at the school. A third teacher was charged with sexual offences against pupils but took his own life before the case came to trial.<sup>370</sup> Sherborne Preparatory School was owned by the headteacher, Robin Lindsay. In 1998, an Independent Schools Tribunal prohibited Lindsay from teaching and from owning an independent school, concluding that he was a “*fixated paedophile*” who posed a risk

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<sup>368</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*

<sup>369</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, pp 9–13

<sup>370</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p39, para 134

to children.<sup>371</sup> In 2014, eight former pupils of the school made allegations to the police that Lindsay had sexually abused them as children but he was by then suffering from advanced dementia and was judged not fit to stand trial.<sup>372</sup>

**2.2.** In Phase 1, evidence was considered relating to the four specialist music schools in England – Chetham’s School of Music (Chetham’s), The Yehudi Menuhin School, Wells Cathedral School and The Purcell School for Young Musicians – which are independent boarding schools that also take day pupils. (See Part B, where incidents of child sexual abuse and safeguarding concerns at these schools are set out in detail.)

**2.3.** In Phase 2, evidence was considered relating to Clifton College, an independent boarding school which includes day pupils, and Ruthin School, an independent day and boarding school in Denbighshire, North Wales. (See Part B – Clifton College – and Part J – Ruthin School – for further details.)

## C.2: Additional risks in boarding schools

**3.** Boarding schools could be said to provide “*the ideal environment for grooming*”.<sup>373</sup> Certain characteristics unique to the boarding environment heighten the risks of sexual abuse of pupils by staff.

**3.1.** Boarders are under the authority of adults in the school and are dependent upon them for their welfare. Staff may live on site and spend time alone with individual children, creating opportunities for grooming and abuse, as was the case with Julien Bertrand, who sexually abused a boarding pupil at Wells Cathedral School.<sup>374</sup> For children living away from home, staff play a unique role in their lives and this may create a dynamic of power and control that can be abused by offenders. The innate power imbalance between children wanting to succeed and staff responsible for helping them can facilitate abuse.<sup>375</sup> This is especially true of staff with pastoral roles, such as housemasters or housemistresses and matrons.<sup>376</sup> In some boarding schools, a sense of staff having power and control over pupils may be exacerbated by a strong sense of hierarchy within the school.<sup>377</sup>

**3.2.** There is often a higher incidence of individual tuition at boarding schools, in music or sports coaching or for additional academic tuition. This can lead to unique and close relationships developing between pupils and staff.<sup>378</sup> At Chetham’s in the 1980s and 1990s, both Michael Brewer and Christopher Ling, amongst others, exploited their positions of power and their one-to-one tuition with pupils to sexually abuse children.<sup>379</sup>

**3.3.** Some boarding schools, especially long-established institutions, have developed strong traditions and a particular ethos in which the institution’s own rules and ways of doing things are seen as paramount. This may lead to a sense of exceptionalism and the

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<sup>371</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p16, para 48

<sup>372</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p26, para 87

<sup>373</sup> EWM000465\_014

<sup>374</sup> See Part B paras 35–36

<sup>375</sup> ISC000001\_003 para 1.1

<sup>376</sup> EWM000465\_006-007

<sup>377</sup> EWM000465\_010

<sup>378</sup> EWM000465\_004

<sup>379</sup> See Part B paras 7–25



tolerance of perceived 'idiosyncrasies' from staff, which can mask abusive or grooming behaviours.<sup>380</sup> This enabled Jonathan Thomson-Glover's offending to go undetected at Clifton College: "*With a father and a grandfather who were Old Cliftonians, he had a deep understanding of the school's history, culture and values, which camouflaged his eccentric behaviour*".<sup>381</sup>

**3.4.** Boarding schools often produce a strong sense of group allegiance and very close relationships may exist between members of staff, some of whom will live together on site. Pupils' awareness of such allegiances between staff may make it more difficult to identify staff members in whom they may confide, impeding the reporting of concerns.<sup>382</sup> As was reflected in the evidence from Clifton College, parents as well as school governors in the independent sector may have attended the school themselves and have a strong loyalty to the institution and a tendency to protect its reputation.<sup>383</sup>

**3.5.** Boarding pupils can be emotionally isolated because they are separated from their parents. Sometimes parents may choose to send their children to boarding school to distance them from domestic difficulties.<sup>384</sup> Some boarding schools are also geographically isolated and some have limited opportunities for contact with people outside of the school. This was the case with many of the schools referenced in Counsel's closed residential schools account.<sup>385</sup>

**3.6.** Around one-third of boarding pupils are international students who are living far away from their families, having to adapt to what may be a very different culture, and who may also encounter difficulties in communicating in English. Some international pupils may have limited opportunities to contact their families, either because of time-zone differences or because of the regime of the school.

**3.7.** The very nature of boarding schools can create a number of issues that can compromise effective safeguarding. The school may exist within a "*bubble where there is little influence over the norms of the school from the outside environment*".<sup>386</sup> Boarding schools may be less often visited by external agencies, which can find it difficult to understand their practices and ethos.<sup>387</sup>

**4.** Many of the additional risk factors identified apply to the boarding school environment generally, rather than applying exclusively to pupils who board. Jonathan Thomson-Glover was a teacher at Clifton College and was convicted in 2015 of a number of offences relating to the covert filming of pupils between 1998 and 2014 at the day house where he was housemaster. A number of the factors set out above were present at Clifton College during the period of his offending. In particular, Thomson-Glover's pastoral role as housemaster meant that he was the most important and influential person in the school lives of pupils at House 1.<sup>388</sup>

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<sup>380</sup> EWM000465\_005, 008

<sup>381</sup> CFC000016\_006 para 3

<sup>382</sup> EWM000465\_010

<sup>383</sup> EWM000465\_017

<sup>384</sup> EWM000465\_021

<sup>385</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*

<sup>386</sup> EWM000465\_022

<sup>387</sup> EWM000465\_023

<sup>388</sup> RS-A345 17 November 2020 12/3-23

5. There have been significant changes in the safeguarding framework in respect of boarding schools since the incidents of child sexual abuse took place in the institutions identified in Counsel's closed residential schools account. Regular inspection of boarding welfare has been undertaken in schools since 1993 (see Part H). Systems for vetting and barring adults who work with children have been formalised and placed within the remit of a specific agency (see Part I). Statutory guidance on safeguarding children in schools and handling allegations against staff has been published and updated since 1995 (see Part E). Specific standards for boarding schools, the national minimum standards (NMS; discussed below), were introduced in 2002 to safeguard and promote the welfare of children who board.<sup>389</sup>

6. However, even where safeguarding procedures and reporting protocols are extensive, the circumstances in which abusive relationships can develop and the cultural, organisational and geographic blind spots which can facilitate abuse in any boarding school are little different from the past.<sup>390</sup>

7. The focus of the Inquiry in relation to boarding schools concerned the response to allegations of child sexual abuse by adults. Pupils at boarding schools are also at heightened risk of harmful sexual behaviour between children at school because of the increased opportunities for such abuse to take place. Boarders depend upon school staff to act in accordance with statutory guidance in order to prevent such behaviour and to respond appropriately to incidents. Despite the heightened risks in boarding schools, the statutory guidance on harmful sexual behaviour between children does not provide any additional guidance specific to residential settings.<sup>391</sup>

### C.3: Additional risks in specialist music schools

8. The Inquiry heard evidence about child sexual abuse and safeguarding concerns which arose at the four specialist music schools in England.<sup>392</sup> These are boarding schools, although some pupils attend as day pupils. All the specialist music schools include overseas students amongst their boarding pupils, who may be far from home and family.

9. Music schools present particular challenges in terms of safeguarding. Instrumental tuition involves a high proportion of one-to-one teaching, usually with the same tutor, and often a degree of physical contact will be necessary. At specialist music schools, tuition may be provided by renowned and distinguished instrumentalists, who teach on a freelance basis without qualifications or training for teaching children. In the case of choir schools, choristers will come into regular contact with adults in the choir, or working at the cathedral, who are not employees of the school. Children who aspire to become successful musicians may look up to and even revere their teacher, who may seek to exploit their power and authority.<sup>393</sup> There can be great pressure on children to succeed and make a career in the somewhat closed world of classical music. Concerns about being seen as 'difficult' may dissuade children from making complaints about their teachers, who can have significant

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<sup>389</sup> DFE001509

<sup>390</sup> ISCO00001\_003 para 1.1

<sup>391</sup> INQ006515

<sup>392</sup> These incidents are set out in Part B.

<sup>393</sup> Ian Pace 1 October 2019 127/1-7

influence over their future education and career.<sup>394</sup> Evidence from former pupils indicated that the atmosphere within specialist music schools could be intensely competitive and emotionally charged, with insufficient regard for the emotional well-being of children.<sup>395</sup>

**10.** The specialist music schools are independent boarding schools and are required to comply with the Independent School Standards and the NMS for boarding schools. Currently, there are no additional safeguarding requirements for specialist music education, notwithstanding the additional risks in these settings.<sup>396</sup> A safeguarding conference took place between the specialist music and dance schools in 2018 and these schools now meet twice a year to discuss safeguarding.<sup>397</sup>

## C.4: International students

**11.** There are significant numbers of international students who attend independent boarding schools – either British citizens whose parents live abroad or foreign nationals whose family live outside the UK. The Department for Education does not compile data on the number of overseas students who board at schools in England. However, the Independent Schools Council (ISC) statistics for 2021 identify 24,674 overseas pupils whose parents live outside the UK – just over one-third of all boarders at ISC schools.<sup>398</sup> Pupils at ISC schools account for approximately 80 percent of the pupils educated in the independent sector.

**12.** Ms Kate Richards, then the chief inspector at the Independent Schools Inspectorate (ISI), said that “*there is an increased vulnerability for these children in residential settings where parents are overseas*”.<sup>399</sup>

**13.** Ms Helen Humphreys (a specialist advisor for residential care at the Office for Standards in Education, Children’s Services and Skills (Ofsted)) considered that the NMS for boarding schools should be strengthened to include a requirement for schools “*to demonstrate that they had taken into account the specific needs of children who are not from this country*”.<sup>400</sup>

### Educational guardians

**14.** International students whose parents are not in the UK need an educational guardian if they attend a British boarding school in order to obtain the relevant visa.<sup>401</sup> Educational guardians act in place of the parents while the child is in the UK, supporting the child throughout their studies and providing a home for them during holidays or weekends.<sup>402</sup> He or she may be an individual appointed by the parents, such as a family member or a friend of the family, or the parents may use the services of an agency to provide an educational guardian.

**15.** Educational guardians are unregulated. There is no statutory licence, compulsory registration or training required for individuals or companies wishing to provide educational guardian services. If an educational guardian is appointed by a parent, the guardian is

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<sup>394</sup> Ian Pace 1 October 2019 128/11-129/25

<sup>395</sup> RS-A2 1 October 2019 3/6-24; RS-A1 1 October 2019 72/4-73/22

<sup>396</sup> DFE002073\_120-124 paras 517-536

<sup>397</sup> Alistair Tighe 2 October 2019 172/6-18

<sup>398</sup> INQ006526\_005

<sup>399</sup> Kate Richards 2 October 2019 113/23-25

<sup>400</sup> Helen Humphreys 2 October 2019 155/8-13

<sup>401</sup> Yasemin Wigglesworth 4 October 2019 117/5-9

<sup>402</sup> Yasemin Wigglesworth 4 October 2019 107/1-9

not required to comply with any standards or to obtain a Disclosure and Barring Service (DBS) certificate, and the school is not required to carry out any checks.<sup>403</sup> This means that individuals who are unsuitable to work with children, or even those who have criminal convictions for child sexual abuse, can be appointed as educational guardians.

**16.** Currently, the NMS for boarding schools permit a member of school staff to be appointed as the educational guardian of an international student, although some schools do not permit this.<sup>404</sup> As Ms Richards told us, school staff acting as educational guardians blurs boundaries, with the potential to cause problems or to prevent problems surfacing.<sup>405</sup> At Chetham's in the late 1990s, for example, violin tutor Wen Zhou Li was the educational guardian of a 16-year-old girl whom he sexually abused while she was residing with him during weekends and school holidays.<sup>406</sup> In 2013, shortly after the arrest of Wen Zhou Li, ISI inspectors found that there was another staff member at the school who was acting as an educational guardian to a student.

**17.** At the time of the Phase 1 hearing (September and October 2019), the Association for the Education and Guardianship of International Students (AEGIS) was the only organisation which offered accreditation of educational guardians. In May 2020, the Boarding Schools' Association introduced a certified guardian scheme, with similar requirements for accreditation of guardianship agencies to those of AEGIS. Educational guardian agencies which are accredited by AEGIS are required to obtain enhanced DBS checks and to provide safeguarding training for all individuals offering guardianship services, as well as to assess the suitability of host families and the accommodation provided. The educational guardians are also bound by a code of conduct and must adhere to safeguarding policies and procedures.<sup>407</sup>

**18.** Some boarding schools require parents appointing an educational guardian who is not known to them personally to use an agency accredited by AEGIS or the Boarding Schools' Association but this is not a statutory requirement. In 2019, less than one-quarter of international students at school in England and Wales had an educational guardian provided through an AEGIS-accredited agency.<sup>408</sup> Ms Yasemin Wigglesworth, chief executive officer of AEGIS, told the Inquiry that there was "*more regulation and licensing around looking after people's pets in your home as a dog care business*" than for looking after international pupils.<sup>409</sup>

**19.** The evidence from the schools inspectorates indicated concerns about the lack of regulation. Ms Richards considered that there needs to be some formal regulation of educational guardians and that this area remained a "*significant concern*".<sup>410</sup> Ms Humphreys considered that there is an "*insufficient number of safeguards*" currently regarding educational guardians.<sup>411</sup>

**20.** Under the current NMS, the school has a duty to regularly monitor the suitability of any arrangements which it makes for the appointment of educational guardians but has no specific responsibilities in relation to educational guardians appointed by parents.

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<sup>403</sup> Yasemin Wigglesworth 4 October 2019 117/24-118/4; Kate Richards 2 October 2019 119/6-8, 119/23-24; Helen Humphreys 2 October 2019 154/7-10

<sup>404</sup> Kate Richards 2 October 2019 118/6-9

<sup>405</sup> Kate Richards 2 October 2019 118/11-15

<sup>406</sup> INQ006527

<sup>407</sup> Yasemin Wigglesworth 4 October 2019 110/1-115/15

<sup>408</sup> Yasemin Wigglesworth 4 October 2019 107/19-108/1

<sup>409</sup> Yasemin Wigglesworth 4 October 2019 124/12-18

<sup>410</sup> Kate Richards 2 October 2019 119/6-8; 119/23-24

<sup>411</sup> Helen Humphreys 2 October 2019 154/7-10

In February 2021, the Department for Education completed a consultation on proposed changes to the statutory NMS for boarding schools (set out below), which would include some amendments to place increased emphasis on the responsibilities of schools for ensuring the safety of children staying with educational guardians. The proposals for revisions to the NMS include that:

*“Where children have guardians that have not been appointed by the school, the school takes appropriate steps to ensure that children are safe and that the guardianship arrangement is promoting the physical and emotional wellbeing of the child. Any concerns about guardianship arrangements are referred to the relevant agency”.*<sup>412</sup>

**21.** The proposals also include the introduction of a prohibition on a member of school staff acting as the educational guardian for any pupil. The consultation document did not propose the introduction of a system of compulsory accreditation or regulation of educational guardians.<sup>413</sup>

**22.** Dr Tim Greene, the headteacher of Clifton College (a school where 231 out of 392 boarders had an educational guardian), considered that it would be a “*massive undertaking*” for individual schools to assess the guardianship arrangements of every overseas student. He questioned how such assessments would operate in practice and how consistent standards could be achieved without an external body of oversight such as AEGIS or the Boarding Schools’ Association.<sup>414</sup> Dr Greene’s view was that the school’s role was as a “*whistleblowing point*” if any children have concerns about their educational guardianship.<sup>415</sup>

## C.5: National minimum standards

**23.** Despite the additional risks to children at boarding schools as set out above, there are no additional safeguarding requirements or advice for boarding schools set out in the statutory guidance (*Keeping Children Safe in Education* (KCSIE) in England and *Keeping Learners Safe* in Wales). There are specific school standards which apply to boarding schools (the NMS), against which Ofsted, Estyn and the ISI inspect. There is detailed consideration of the inspection regime in Part H.

**24.** The NMS in Wales were introduced in 2003 and have not been revised or amended since their inception. These standards are considered in more detail in Part J.

**25.** The NMS for boarding schools in England were introduced in 2002 “*to safeguard and promote the welfare of children*” accommodated at boarding schools<sup>416</sup> and have been amended in 2011, 2013 and 2015. They have been reduced from a 60-page document with significant detail to a 20-page document with broad standards and little detail as to how they should be met.<sup>417</sup> The current standards are described as having a focus upon “*the extent to which the school promotes and safeguards the welfare of all boarders, rather than its compliance with structures and systems*”.<sup>418</sup> Judgements are made as to the adequacy and suitability of the provision.<sup>419</sup>

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<sup>412</sup> INQ006558\_019 para 22.3 standard 22

<sup>413</sup> INQ006558\_019 para 22.4 standard 22

<sup>414</sup> Tim Greene 17 November 2020 116/11-117/5

<sup>415</sup> Tim Greene 17 November 2020 117/14-24

<sup>416</sup> DFE000005\_007

<sup>417</sup> DFE000005; DFE001509

<sup>418</sup> DFE001509\_005

<sup>419</sup> DFE001509\_005

**26.** NMS 11 concerns child protection. It is broad rather than specific, requiring that:

- “arrangements are made to safeguard and promote the welfare of pupils at the school; and
- such arrangements have regard to any guidance issued by the Secretary of State.”<sup>420</sup>

This means that the safeguarding policies and practice must comply with KCSIE and other safeguarding guidance. KCSIE states that boarding schools “have additional factors to consider with regard to safeguarding”, but there is no further detail within KCSIE or the NMS regarding these additional factors, or how boarding schools should approach safeguarding in the light of the additional challenges which can arise in the residential sector.<sup>421</sup>

**27.** In respect of staffing, there is a requirement for boarders to be under the responsibility of “an identified member of staff who is suitably qualified and experienced”, but the NMS do not specify any qualification or training requirements for staff who live on-site or who have responsibilities for boarders at a mainstream boarding school.<sup>422</sup> There is a requirement that access to staff accommodation is properly supervised and does not involve inappropriate favouritism or one-to-one contact between staff and boarders.<sup>423</sup>

**28.** The NMS require that the governing body or proprietor monitor the effectiveness of the leadership, management and delivery of boarding provision, and that the leadership of the school demonstrate “good skills and knowledge appropriate to their role”.<sup>424</sup> There is no requirement in the NMS for staff or governors to have specific safeguarding training appropriate for their roles. The NMS stipulate that staff with management responsibilities should have an adequate level of experience and training in the management and practice of boarding to ensure that children’s welfare is safeguarded.<sup>425</sup> There is a requirement for induction training in boarding and “opportunities” for training for all staff members working in a boarding setting but there is no standardised qualification or syllabus for such training.<sup>426</sup>

**29.** There is a requirement in the NMS for both boarding and residential special schools to have an ‘independent listener’, a person who is not a parent or a member of staff or part of the leadership and governance of the school, who boarders may contact directly about personal problems or concerns at school. The NMS do not set out any further detail or qualifications for this role. The Inquiry heard evidence that the independent listener service is not much used by pupils. Witnesses from both Ofsted and the ISI stated that, at some schools, the children are not aware of the independent listener.<sup>427</sup>

**30.** Ms Kate Dixon, director of school quality and safeguarding at the Department for Education, said that the NMS were the subject of a consultation because neither the very detailed and prescriptive standards nor the very brief and broad standards were “quite right”.<sup>428</sup> The consultation ran from December 2020 and closed on 23 February 2021. As of January 2022, the Department for Education had not published the outcome of the consultation.

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<sup>420</sup> DFE001509\_011

<sup>421</sup> INQ006502\_038 para 146

<sup>422</sup> DFE001509\_013 standard 15

<sup>423</sup> DFE001509\_014 standard 15.10

<sup>424</sup> DFE001509\_011 standard 13.3

<sup>425</sup> DFE001509\_012 standard 13.6

<sup>426</sup> DFE001509\_013 standard 15.1

<sup>427</sup> Elizabeth Coley 2 October 2019 111/18-20; Helen Humphreys 2 October 2019 148/12-16

<sup>428</sup> Kate Dixon 7 October 2019 173/12-14



Part D

# Residential special schools

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# Residential special schools

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## D.1: Introduction

1. In this Part the term ‘residential special schools’ is used to describe settings where children both live and are educated. Some of the schools looked at were independent schools associated with children’s homes.
2. Special schools provide care and education for pupils with special educational needs and disabilities (SEND). Children with SEND require “*Special educational provision*”.<sup>429</sup> The majority of pupils with SEND are not educated in residential special schools – they attend mainstream schools often with additional provision or special day schools.<sup>430</sup>
3. Pupils at residential special schools fall broadly into four groups:
  - children with severe learning disabilities, autism and challenging behaviour;
  - children with social, emotional and mental health problems and challenging behaviour;
  - children with profound and multiple learning disabilities and multiple health needs; and
  - children with sensory impairments or specific learning difficulties.<sup>431</sup>
4. Pupils live on-site, so that education and care are both provided over a 24-hour period. Where pupils are resident at school for up to 295 days of the year, the school is a residential special school for the purposes of registration and inspection. If pupils are resident for more than 295 days of the year, the school is required to register as a children’s home in England or a care home in Wales.<sup>432</sup> As at August 2020, there were 67 residential special schools in England that had voluntarily registered with the Office for Standards in Education, Children’s Services and Skills (Ofsted) as children’s homes.<sup>433</sup> There is no voluntary registration process in place in Wales.<sup>434</sup>
5. The sector has reduced in size over time. In 2010, there were 7,600 pupils boarding in residential special schools in England – in 2019, there were fewer than 4,000 pupils.<sup>435</sup> The decrease in number is largely because more children are having their needs met in local provision. The small number of children now accessing residential special schools represent children with extremely complex needs – whether physical, cognitive, social or emotional – who live away from home because their needs cannot be met in local provision.
6. The investigation examined five residential special schools: Appletree School, Cumbria; the Royal School Manchester; Southlands School, Hampshire; Stony Dean School, Buckinghamshire; and Stanbridge Earls School, Hampshire.<sup>436</sup> These schools educate and

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<sup>429</sup> Section 21 of the Children and Families Act 2014

<sup>430</sup> INQ006530; INQ006606

<sup>431</sup> INQ004424\_005-006 paras 15–18

<sup>432</sup> Section 1 Care Standards Act 2000 in England and Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 in Wales.

<sup>433</sup> DFE003471\_009 para 33

<sup>434</sup> WGT000488\_002-003

<sup>435</sup> INQ004307\_008-009; DFE002073\_033; INQ006503

<sup>436</sup> Stony Dean School was a residential special school for the period under consideration (2000–2004) but is now a day special school.

care for pupils with a range of special educational needs and disabilities. The issues explored in these schools included harmful sexual behaviour between pupils;<sup>437</sup> child sexual abuse by a member of care staff against pupils;<sup>438</sup> the inspection of residential special schools;<sup>439</sup> and non-recent decisions of the Department for Education about whether to prohibit individuals from working with children in educational settings.<sup>440</sup>

**7.** The closed residential schools account considered three schools which would now be described as residential special schools for children with social, emotional and mental health difficulties.<sup>441</sup> These were Sheringham Court School in Norfolk, which became Thurlby Manor School in Lincolnshire, and Feversham School in Newcastle upon Tyne, which were independent but funded, inspected and registered by local authorities. Local authorities from all over the country placed children at these schools.<sup>442</sup> Abuse occurred between the 1970s and the 1990s.<sup>443</sup>

**7.1.** At Sheringham Court and Thurlby Manor, Bryan Greenhalgh and Ken Wells sexually abused a large number of pupils between 1975 and 1983. In 2014, they were convicted of a large number of offences against pupils at the schools.<sup>444</sup>

**7.2.** At Feversham School, Ken Brown and John Leslie Duncan systematically and repeatedly sexually abused the pupils.<sup>445</sup> Formal reports of abuse, including sexual abuse, were made to the school in 1978, 1987, 1988 and 1991, as well as informal reports in 1976.<sup>446</sup> A “*deeply flawed*” independent investigation in 1988 led to no action being taken.<sup>447</sup> At trials in 2011 and 2014, Brown was convicted of sexual offences against 10 pupils.<sup>448</sup> Duncan was convicted of sexual offences against two pupils in 2002. In 2014, he was convicted of sexual offences against a further seven pupils.<sup>449</sup>

**8.** In addition to providing information about non-recent incidents, the residential special schools also gave evidence about the continuing challenges of keeping children safe, their safeguarding structures and training, as well as their views concerning the adequacy of current statutory guidance for children with SEND and training for staff.

<sup>437</sup> At Appletree School, Stanbridge Earls School and information on dealing with such issues at Southlands School.

<sup>438</sup> At Stony Dean School.

<sup>439</sup> Primarily considered at Stanbridge Earls School.

<sup>440</sup> At the Royal School Manchester.

<sup>441</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*

<sup>442</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p26, para 89

<sup>443</sup> Feversham School was set up in 1969 and closed in 1996 (*Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p44, para 151). Sheringham Court School and Thurlby Manor School operated between 1975 and 1983 (*Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p26, paras 89 and 91).

<sup>444</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, pp28–29

<sup>445</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p44, paras 151 and 153

<sup>446</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p54, paras 192–193

<sup>447</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p48, para 165

<sup>448</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, pp49–52, paras 166–182

<sup>449</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, pp52–54, paras 183–191

## D.2: Additional vulnerabilities of children in residential special schools

9. Pupils in residential special schools are amongst the most vulnerable children in our society. Disabled children are almost three times more likely to experience sexual violence than non-disabled children.<sup>450</sup>

10. Despite statistics that suggest that a high proportion of sexual abuse outside the home occurs in schools,<sup>451</sup> there are few convictions for child sexual abuse in residential special schools. This may be for several reasons, including that pupils with SEND find it more difficult to disclose abuse and that there are difficulties with the investigative and court processes for witnesses with SEND.<sup>452</sup>

11. Dame Christine Lenehan, director of the Council for Disabled Children, explained that children in residential special schools are particularly vulnerable due to a combination of “*impairment and distance*”.<sup>453</sup>

**11.1.** Many children living in these settings have significant communication impairments. Some children are unable to communicate verbally; some have social communication disorders which mean that their understanding of social cues and norms is limited. This significantly impacts the ability of these children to tell others about sexually abusive behaviours. A number of children in residential special schools have complex physical disabilities which make them completely reliant on adults for all aspects of their care, as well as their education.

**11.2.** Many children placed in residential special schools live a considerable distance from their parental home. Around 75 percent of children who live in out-of-area placements travel more than 20 miles away from home.<sup>454</sup> Their parents and other family members who know them well are not present to interpret their communication needs, or to understand when their behaviour is connected to pain, distress or unhappiness. In her review of the residential special school sector, Dame Christine Lenehan considered that the sector was “*too closed*”<sup>455</sup> and that, where family members did not visit or had become disengaged, the children might have no outside visits during the year:

*“anything that breaks the isolation of the schools, that has people in and out of them ... is a good thing ... because these children have very isolated lives.”*<sup>456</sup>

12. Victims and survivors told the Inquiry that the combination of impairment and distance had made them particularly vulnerable. In response to a question about whether he could talk to anyone outside of Appletree School about the harmful and abusive sexual behaviour he was subjected to by older children, RS-A6 said:

*“Not really. I mean ... they’ve put you in a home that’s essentially hundreds of miles from anyone you know.”*<sup>457</sup>

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<sup>450</sup> MEN000001\_001 para 4; *Child sexual abuse in residential schools: A literature review*, section 4.3

<sup>451</sup> *Safeguarding children from sexual abuse in residential schools*, p17

<sup>452</sup> James Robinson 7 October 2019 76/18-80/19

<sup>453</sup> INQ004424\_003 para 7

<sup>454</sup> James Robinson 7 October 2019 118/25-119/2

<sup>455</sup> Christine Lenehan 7 October 2019 30/13

<sup>456</sup> Christine Lenehan 7 October 2019 29/14-18

<sup>457</sup> RS-A6 7 October 2019 130/23-25

**13.** RS-A6 also said that, because he was in a home for children with social, emotional and behavioural problems, he felt he would not be believed:

*“from the day you’re brought in there, you’re essentially – you are the problem, you are the problem child. So anything that comes out of your mouth is rubbish.”<sup>458</sup>*

**14.** RS-A7, who was abused by Anthony Bulley at Stony Dean School, described how his autism (which was not diagnosed until he was an adult) acted as a barrier to him disclosing sexual abuse because the questions he was asked by a concerned member of staff were not literal or explicit enough to enable him to disclose the abuse.<sup>459</sup>

## D.3: Inspection and oversight of the residential special schools sector

### Inspection

**15.** Residential special schools where pupils are resident for up to 295 days are inspected against national minimum standards (NMS) for residential special schools in both England<sup>460</sup> and Wales.<sup>461</sup> Residential special schools where pupils are resident for more than 295 days are inspected against quality standards for children’s homes in England and quality standards for care homes in Wales.<sup>462</sup>

**16.** Ms Karen Gaster, executive principal at Southlands School, had experience of running a residential special school and a school which had a residential site registered as a children’s home. She told us that the difference between the two regimes, from a practitioner’s perspective, was *“Quite significant”*. Ms Gaster described the main difference as being the level of scrutiny: *“Outside eyes looking in is constant, and the level of scrutiny and reporting outwards is markedly different”*.<sup>463</sup>

### Quality standards

**17.** The quality standards for children’s homes in England are set out in the Children’s Homes Regulations 2015 and include standards relating to the protection of children, their care and their well-being.<sup>464</sup> The standards are inspected against ‘outcomes’ for children and are seen to be aspirational, going beyond minimum requirements and being ambitious for children.<sup>465</sup>

**18.** The protection of children standard *“is that children are protected from harm and enabled to keep themselves safe”*.<sup>466</sup> The registered person is required to ensure that staff:

- assess whether each child is at risk of harm, taking into account information in the child’s relevant plans and, if necessary, make arrangements to reduce the risk of any harm to the child;
- help each child to understand how to keep safe;

<sup>458</sup> RS-A6 7 October 2019 128/10-13

<sup>459</sup> RS-A7 9 October 2019 61/3-62/24

<sup>460</sup> INQ006605

<sup>461</sup> There are different residential special school NMS in England and Wales because they have been revised in England a number of times, whereas the NMS have never been amended in Wales.

<sup>462</sup> Section 1 of the Care Standards Act 2000; Schedule 1 of the Regulation and Inspection of Social Care (Wales) Act 2016

<sup>463</sup> Karen Gaster 9 October 2019 12/5-20

<sup>464</sup> The Children’s Home (England) Regulations 2015

<sup>465</sup> DFE002073\_008-010 paras 26-32

<sup>466</sup> Regulation 12 of The Children’s Homes (England) Regulations 2015

- have the skills to identify and act upon signs that a child is at risk of harm;
- manage relationships between children to prevent them from harming each other;
- understand the roles and responsibilities in relation to protecting children that are assigned to them by the registered person;
- take effective action whenever there is a serious concern about a child's welfare; and
- are familiar with, and act in accordance with, the home's child protection policies.<sup>467</sup>

The registered person must also ensure that the home's day-to-day care is arranged and delivered so as to keep each child safe and to protect each child effectively from harm; the premises used for the purposes of the home are located so that children are effectively safeguarded; and the effectiveness of the home's child protection policies is monitored regularly.<sup>468</sup>

**19.** A number of the other standards also include an element of safeguarding. The positive relationships standard is that children are helped to develop and to benefit from:

- relationships based on mutual respect and trust;
- an understanding about acceptable behaviour; and
- a positive response to other children and adults.<sup>469</sup>

The leadership and management standard requires that the registered person enables, inspires and leads a culture in relation to the children's home that helps children aspire to fulfil their potential and promotes their welfare.<sup>470</sup>

**20.** In Wales, the standards were set out in regulations<sup>471</sup> in 2017 and statutory guidance was issued setting out how the standards should be met.<sup>472</sup> The overarching safeguarding requirement is that the service provider "*must provide the service in a way which ensures that individuals are safe and are protected from abuse, neglect and improper treatment*".<sup>473</sup>

### *National minimum standards*

**21.** The NMS for residential special schools were introduced in 2003. In England they were amended in 2011, 2013 and 2015.<sup>474</sup> They have never been amended in Wales. The Inquiry has concerns about both the English and the Welsh minimum standards.

**21.1.** In England, the changes made over time to the standards mean that there is "*very little difference between the boarding school standards and the residential special school standards*",<sup>475</sup> despite the needs of the pupils in those settings being very different. Ms Helen Humphreys, Ofsted's specialist advisor for residential care, considered that Ofsted was "*restricted by the national minimum standards*" when it came to inspecting residential special schools; it is only able to assess the school's safeguarding within the narrow remit of the standards. Dame Christine Lenehan had been concerned about this

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<sup>467</sup> Regulation 12(2)(a) of The Children's Homes (England) Regulations 2015

<sup>468</sup> Regulation 12(2)(b)(c)(e) of The Children's Homes (England) Regulations 2015

<sup>469</sup> Regulation 11(1) of The Children's Homes (England) Regulations 2015

<sup>470</sup> Regulation 13(1) of The Children's Homes (England) Regulations 2015

<sup>471</sup> The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

<sup>472</sup> CIW000003

<sup>473</sup> Regulation 26 of The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017

<sup>474</sup> Helen Humphreys 10 October 2019 6/9-12

<sup>475</sup> Helen Humphreys 10 October 2019 6/15-7/3

limitation when she accompanied Ofsted inspectors on a visit to a residential special school.<sup>476</sup> Ms Humphreys also considered that the NMS do not focus enough on quality and are not aspirational or outcome-focussed.<sup>477</sup>

**21.2.** The current NMS for residential special schools (2015) include the following standard for child protection (Standard 11):

*“The school ensures that: arrangements are made to safeguard and promote the welfare of pupils at the school; and such arrangements have regard to any guidance issued by the Secretary of State.”*<sup>478</sup>

A footnote refers to *Keeping Children Safe in Education* and *Working Together to Safeguard Children*. Any arrangements which meet the minimum requirements of the statutory guidance will therefore lead to this standard being met. Neither the statutory guidance in England nor that in Wales provides sufficiently detailed advice on safeguarding children with special educational needs and disabilities.<sup>479</sup> Standard 11 does not focus on outcomes for children and requires only that safeguarding procedures be in place. This is insufficient and stands in contrast to the current quality standard which applies to residential special schools where children reside for over 295 days, which requires that “*children are protected from harm and enabled to keep themselves safe*”.<sup>480</sup>

**21.3.** In Wales the lack of amendment to the NMS since 2003 means that they have failed to adapt to the changing needs of the pupils in residential special schools. The child protection standard (Standard 5) states: “*The welfare of children is promoted, children are protected from abuse, and an appropriate response is made to any allegation or suspicion of abuse*”.<sup>481</sup> There are 10 paragraphs setting out the minimum requirements, which focus on procedures being in place which are in line with local safeguarding guidance. As in England, the standard is overly focussed on following the minimum requirements of statutory guidance and is out of date.

**22.** There was a broad consensus between Ofsted, the Care Inspectorate Wales, the Welsh Government and Dame Christine Lenehan that changes to inspection and oversight of residential special schools were needed.<sup>482</sup> It was suggested to the Inquiry that all residential special schools should be required to meet the quality standards and not just those where pupils reside for more than 295 days.<sup>483</sup> The NMS were described as unambitious, basic requirements which can easily be met, making them “*wholly inadequate*”.<sup>484</sup> There was also a concern that the needs of the children in residential special schools have more in common with the children in children’s homes than with children in boarding schools, requiring a higher level of care by qualified staff.<sup>485</sup> There was a consensus that all children living away from home, whatever the setting, should be entitled to the same standards of care.<sup>486</sup>

<sup>476</sup> Helen Humphreys 10 October 2019 21/7-22/14

<sup>477</sup> Helen Humphreys 10 October 2019 7/25-8/3

<sup>478</sup> DFE001509\_11 para 11.1

<sup>479</sup> Karen Gaster 9 October 2019 30/4-24

<sup>480</sup> Regulation 12 of The Children’s Homes (England) Regulations 2015

<sup>481</sup> CIW000004\_019-020

<sup>482</sup> Albert Heaney 26 November 2020 39/23-40/5; Vicky Poole 26 November 2020 61/14-19; Helen Humphreys 10 October 2019 8/6-21; Christine Lenehan 7 October 2019 16/2-7

<sup>483</sup> Vicky Poole and Lesley Roberts 26 November 2020 60/1-64/21; Helen Humphreys 10 October 2019 22/13-14

<sup>484</sup> Christine Lenehan 7 October 2019 16/3;

<sup>485</sup> Helen Humphreys 10 October 2019 8/14-21; Helen Humphreys 24 November 2020 65/2-8

<sup>486</sup> Christine Lenehan 7 October 2019 16/22-24



**23.** The Welsh Government stated during the Inquiry’s public hearings in November 2020 that it intended to allow the Care Inspectorate Wales to regulate all residential special schools against the standards for care homes, rather than having separate standards for residential special schools which accommodate pupils for up to 295 days. It explained that the consultation about this issue was delayed by the COVID-19 pandemic.<sup>487</sup> The Welsh Government indicated in October 2021 that it expected *“that the work to develop regulations and statutory guidance will begin next financial year”*.<sup>488</sup>

**24.** The Department for Education’s current position is that it does not intend to introduce quality standards to all residential special schools in England but will ‘level up’ the NMS. Baroness Elizabeth Berridge, Parliamentary Under Secretary of State for the School System, described this as introducing a *“quality marker”* which will *“raise the bar”* in terms of how the standards are framed.<sup>489</sup>

**25.** In December 2020, the Department for Education launched a consultation on proposed changes to the NMS for residential special schools. The consultation states that the draft standards are *“designed to raise the bar in terms of the minimum standard of quality offered by residential school provision, in order to achieve better outcomes for pupils”*.<sup>490</sup>

**26.** The draft standards introduced an ‘aim’ to the minimum standards in respect of safeguarding health and safety:

*“Children are safe while at school. Effective measures are taken to manage risk and protect children from harm, and to manage well any incidents that do occur.”*<sup>491</sup>

However, the main safeguarding standard was unchanged. It only requires providers to make arrangements to *“safeguard and promote the welfare of children at the school”* in line with statutory guidance.<sup>492</sup> This is not sufficient given the particular risks to children in residential special schools. It is also unclear whether the introduction of an ‘aim’ will assist the inspectorates to be more rigorous in inspecting safeguarding.<sup>493</sup>

**27.** Ms Amanda Spielman, Her Majesty’s Chief Inspector of Education, Children’s Services and Skills, did not think that the Department for Education’s approach went far enough and reiterated the need for quality standards for residential special schools.<sup>494</sup> Dame Christine Lenehan agreed:

*“I am very disappointed in the DFEs decision not to monitor and inspect Residential Special Schools to the same standards as Children’s homes. I maintain my belief that all children who spend substantial time away from home without the protective factor of family, and for many children access to appropriate communication, should have the same quality standards.”*<sup>495</sup>

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<sup>487</sup> Albert Heaney 26 November 2020 39/15-19

<sup>488</sup> WGT000488 para 10

<sup>489</sup> Elizabeth Berridge 25 November 2020 118/11-119/19

<sup>490</sup> INQ006543\_005

<sup>491</sup> DFE003479\_017

<sup>492</sup> DFE003479\_017

<sup>493</sup> IS1002180\_006 para 25 (made with reference to the NMS for boarding schools on the issue of having an aim).

<sup>494</sup> OFS012736\_002-003 paras 9–10

<sup>495</sup> INQ006273\_002 para 9



**28.** Ofsted’s response to the Department for Education’s consultation on the revised NMS for residential special schools also made its position clear:

*“While the overall aims are clear and set out well, the expectations of the revised standards are not ambitious enough. We remain concerned that there is a missed opportunity to be ambitious for children. We want to have an increased ability to hold schools to account for mediocre practice. ...*

*The children that reside in RSSs are very vulnerable and continued use of the word ‘minimum’ is disappointing. While the revised standards make the expectation of quality clearer, the bar remains too low.*

*The draft NMS still set lower expectations than quality standards introduced for children’s homes in 2015.”<sup>496</sup>*

## Oversight

**29.** The evidence of Dame Christine Lenehan and the National Association of Special Schools was that there was insufficient oversight by local authorities of placements in residential special schools, leaving children isolated.<sup>497</sup> The government recognised this as a problem following a review by Dame Christine Lenehan in 2017, and issued statutory guidance in November 2017 requiring all local authorities to visit all children with special educational needs and disabilities in residential placements every six months.<sup>498</sup>

**30.** However, evidence indicated that, in practice, the six-monthly visits were rarely taking place.<sup>499</sup> For example, Ms Gaster, executive principal at Southlands School, stated that 26 different local authorities place children at Southlands School. She said that the school works “very hard” to get local authorities involved.<sup>500</sup> A representative from the local authority attends 80 to 85 percent of looked-after children reviews, but for only about half of the annual reviews of a child’s education, health and care plan.<sup>501</sup> Ms Gaster confirmed that, where a child was not a looked-after child, local authorities were not visiting every six months, as required.<sup>502</sup> Dame Christine Lenehan said that, when she spoke to local authorities about visiting children placed out of area in residential special schools, she was told that the visits were still not taking place. She also commented that there was no publicity when the guidance was published, no training and no follow-up to make sure the visits took place as required.<sup>503</sup>

<sup>496</sup> OFS012748\_003

<sup>497</sup> INQ004258\_007 paras 29–31; Christine Lenehan 7 October 2019 12/1-6

<sup>498</sup> DFE002033; DFE002035

<sup>499</sup> Christine Lenehan 7 October 2019 12/15-17

<sup>500</sup> Karen Gaster 9 October 2019 36/8

<sup>501</sup> Karen Gaster 9 October 2019 36/7-15

<sup>502</sup> Karen Gaster 9 October 2019 36/23

<sup>503</sup> Christine Lenehan 7 October 2019 11/4-13/14

## D.4: Harmful sexual behaviour

**31.** Professor Simon Hackett, professor of child abuse and neglect at Durham University, explained that a small-scale study he had conducted suggested that children and young people were the alleged perpetrators in about a quarter to a third of all sexual abuse coming to the attention of professionals, and that the incidents of such abuse may be growing.<sup>504</sup> He also referred to research in special schools which found that approximately 88 percent of special schools reported children acting in sexually inappropriate ways.<sup>505</sup>

**32.** Harmful sexual behaviour between pupils occurs in all types of school but can be a particular issue in residential special schools where pupils who are living together may have difficulties understanding social cues or appropriate interactions. The Inquiry's *Safeguarding children from sexual abuse in residential schools* research report noted that residential special schools recorded nearly 10 times the number of concerns per student than other residential schools.<sup>506</sup> The increased frequency may be explained in part by the greater levels of supervision in residential special schools. This can be seen in an example given at Southlands School where at the time of the hearing in October 2019 a couple of 16-year-old pupils were in a relationship in the school. Ms Gaster described having to monitor their relationship "very, very carefully" using contracts of behaviour and discussions with parents and social workers.<sup>507</sup>

**33.** As well as increased supervision in residential special schools, there are higher levels of reporting and, as Professor Hackett described, sometimes:

*"a tendency on the part of professionals, or indeed carers, to infantilise young people with learning disabilities; not really see them as sexual beings or having the same kind of sexual rights or legitimacy to express their sexuality as other young people because of their perspectives on their disability itself."*<sup>508</sup>

**34.** Harmful sexual behaviour was considered by the Inquiry in relation to Appletree School and Stanbridge Earls School. Both schools had difficulties managing harmful sexual behaviour amongst pupils, as set out in Part B. The schools were very different, and encountered very different challenges in respect of harmful sexual behaviour between children. Appletree is a small residential setting for children of primary school age who have been abused, neglected and excluded from school, whereas Stanbridge Earls presented itself as a traditional boarding school for children from the age of 11, a 'specialist setting' rather than a special school.

**35.** Appletree Treatment Centre (ATC) consists of two schools and three children's homes.<sup>509</sup> Ms Clair Davies, the principal of ATC, described that in a typical year, 7 out of 10 children are suspected of having been sexually abused prior to their placement at the school.<sup>510</sup> This can lead to an increase in the type and range of sexually harmful behaviour displayed by the pupils at the school. Such behaviour can seem normal to them because of their past experiences.<sup>511</sup> In most cases ATC is successful in helping children to understand and manage

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<sup>504</sup> Simon Hackett 8 October 2019 163/14-24

<sup>505</sup> Simon Hackett 8 October 2019 194/4-15

<sup>506</sup> *Safeguarding children from sexual abuse in residential schools*, p5, para 7

<sup>507</sup> Karen Gaster 9 October 2019 42/14-43/17

<sup>508</sup> Simon Hackett 8 October 2019 184/4-9

<sup>509</sup> APP000064\_001

<sup>510</sup> APP000064\_013

<sup>511</sup> APP000064\_022

their feelings in acceptable ways and return to families and foster families.<sup>512</sup> Children are provided with education in basic skills, which have often been absent,<sup>513</sup> a therapeutic parenting approach is adopted<sup>514</sup> and children experience relationships with adults and children which do not involve sex. It is also a valuable resource for children who otherwise may be out of education because of the risk they pose to other children. Managing and responding to the complex sexual behaviours of such young people is a highly specialist task.

**36.** At Stanbridge Earls School the issue was different. Despite having a teenage population, some of whom had complex needs, the school's statement of purpose from 2012 stated that: *"The School does not provide 24 hour-a-day supervision typical of most 'Special' Schools. Instead pupils enjoy an acceptable level of freedom and trust to enjoy the grounds, the supervision being discreet and sometimes distant"*.<sup>515</sup> The school failed to recognise that its safeguarding responsibilities were becoming more complex as it admitted more children with a range of special educational needs, most of whom were living away from their family home. The serious case review found that there had been *"A failure to recognise that sexual activity between children might raise safeguarding concerns, or concerns that crimes may have been committed"*.<sup>516</sup>

**37.** Ms Gaster, executive principal at Southlands School, explained the specific issues that can arise in a residential special school for children and young people with autism. She explained that whilst young people with autism have the same socio-sexual interests and needs as any other young people, their communication and social deficits negatively impact their ability to engage in social and sexual interactions and increase the probability of inappropriate sexualised behaviours.<sup>517</sup>

## D.5: Advocacy services for children with special educational needs and disabilities

**38.** Pupils in residential special schools often have difficulty communicating verbally but may have other ways of communicating. As Dame Christine Lenehan told the Inquiry:

*"I've never met a child who didn't communicate, but I've met lots of children who communicate in ways which are unique to them."*<sup>518</sup>

She felt that advocacy for children in residential special schools was about *"finding the child again"*.<sup>519</sup>

**39.** Triangle, an independent organisation that provides specialist services for children and young people with complex communication needs, also said that *"very young children and those with complex needs can provide information if asked in the right way, and/or if their behaviour is observed in a careful and objective manner"*.<sup>520</sup>

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<sup>512</sup> APP000064\_022-023 para 88

<sup>513</sup> APP000064\_002

<sup>514</sup> APP000064\_002

<sup>515</sup> IS1001029\_007

<sup>516</sup> HSB000011\_062-063

<sup>517</sup> SLS000108\_031 para 113

<sup>518</sup> Christine Lenehan 7 October 2019 25/14-17

<sup>519</sup> Christine Lenehan 7 October 2019 40/17

<sup>520</sup> TRI000011\_002 para 4

**40.** The NMS for residential special schools in both England and Wales require that schools must identify to each child at least one person whom they may contact directly about personal problems or concerns at the school and who is independent of the school or placing authority (the independent person).<sup>521</sup>

**41.** The quality standards for children's homes (which apply where a child resides in a residential special school for more than 295 days per year) provide that:

*"All children must have access to appropriate advocacy support, and where possible this should be provided by a person that the child chooses. Looked-after children are entitled to an independent advocate to advise them and ensure they have the support needed to express their views, wishes and feelings about their care and lives."<sup>522</sup>*

The quality standards also state that although there is not a legal requirement for non-looked-after children to have access to an independent advocate, homes caring for these children should ensure that children can access advocacy support and should also consider the use of an independent advocate where necessary.<sup>523</sup>

**42.** Ms Carol Povey, director of the Centre for Autism at the National Autistic Society, explained that autistic children struggle to understand the role of the independent person as set out in the NMS for residential special schools. She suggested that this person should have the experience and training to support autistic children and young people.<sup>524</sup> She also said that many autistic children lack some of the skills required to keep them safe in education settings, to understand grooming and to report sexual abuse when it happens.<sup>525</sup>

**43.** We also heard of the difficulties of obtaining access to advocacy services. Ms Povey indicated that this could be attributed to limited resources, particularly in providing advocates with the skills, expertise and experience to work with children who communicate in complex ways.<sup>526</sup> Triangle commented on the variability in the approach and skill level of advocates.<sup>527</sup> It also noted that the inability to access advocates could be attributed to the fact that staff may be selective in what they report, and advocates are reliant on information they receive from these staff members to support children with complex needs.<sup>528</sup> Mr James Robinson, policy and strategic lead for children and young people at Mencap, suggested that the difficulty in accessing advocacy services could be because institutions may have "a vested interest in making sure that the investigation isn't as thoroughly carried out as it could be".<sup>529</sup>

**44.** There are currently limited advocacy services for children with disabilities in England and Wales. While some organisations do run advocacy services for children with disabilities, these are largely charitably based and limited in their reach.<sup>530</sup> Children in care or who live away from home can use the 'Help at Hand' telephone and representation service run by the Children's Commissioner but this is not specifically designed for those with disabilities and is not well publicised in residential special school settings.<sup>531</sup>

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<sup>521</sup> DFE001509\_007 para 2.3

<sup>522</sup> DFE001986\_023 para 4.16

<sup>523</sup> DFE001986\_023 para 4.18

<sup>524</sup> NAS000017\_014 para 73

<sup>525</sup> NAS000017\_020-021 paras 115-120

<sup>526</sup> Carol Povey 7 October 2019 99/22-100/1

<sup>527</sup> TRI000011\_007 para 21

<sup>528</sup> TRI000011\_007 para 19

<sup>529</sup> James Robinson 7 October 2019 99/2-9

<sup>530</sup> For example, Triangle, the Council for Disabled Children, Barnardo's and the National Youth Advocacy Service.

<sup>531</sup> INQ006529; INQ004243

**45.** This investigation has also highlighted the importance of children with special educational needs and disabilities having access to individuals independent of their schools who can listen to them and advocate for them. It is an issue that has been raised a number of times before. When asked whether independent advocacy for children with SEND needed to be looked at again, Dame Christine Lenehan said:

*“I think it’s been looked at again, and again, and again in the last 20 years. I think the honest answer is that people won’t resource it effectively because they don’t see it as important enough.”<sup>532</sup>*

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<sup>532</sup> Christine Lenehan 7 October 2019 39/18-25



Part E

# Responding to allegations and concerns in England

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# Responding to allegations and concerns in England

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## E.1: Introduction

1. Responding to allegations and concerns about adults who work in schools is a key part of the framework for safeguarding children from sexual abuse in schools. This Part considers the ways in which some of the schools examined in this investigation failed to respond appropriately when allegations or concerns about sexual abuse by staff were raised. Since at least 1995, the Department for Education (and its predecessors) has published specific guidance about procedures to deal with allegations against staff but in many of the schools the guidance was not known about or was not followed.
2. This Part also considers how some of the schools examined responded to incidents of harmful sexual behaviour between pupils. Incidents of this kind should be reported to children's social care or to the police rather than to the local authority designated officer (LADO), who deals with allegations against adults working with children. Such incidents were not always reported as they should have been in some of the schools examined.
3. Part J considers responses to allegations and concerns in Wales.

## E.2: Background

4. Since at least the mid-1990s, there has been guidance for schools about procedures to adopt when allegations are made that staff have harmed or abused pupils.<sup>533</sup> By 2005, the guidance had become more detailed and was supplemented by advice on signs and behaviours that might indicate that an individual was unsuitable to work with children.<sup>534</sup>
5. Harmful sexual behaviour between pupils in a school has only featured in national guidance more recently. In 2017, the Department for Education published *Sexual violence and sexual harassment between children in schools and colleges*. The guidance was updated in 2018 and July 2021.<sup>535</sup>
6. The most up-to-date statutory guidance for schools on how to respond to allegations and concerns is *Keeping Children Safe in Education 2021* (KCSIE 2021) which came into force in September 2021.<sup>536</sup> Part four of KCSIE 2021 now has two sections, the first dealing with allegations which should be referred to the LADO and the second dealing with low-level concerns which should be dealt with by the school itself. Part five contains procedures for dealing with concerns about “*child on child sexual violence and sexual harassment*” (referred to in this report as harmful sexual behaviour).<sup>537</sup>

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<sup>533</sup> DFE002006

<sup>534</sup> DFE003163\_005; DFE003164

<sup>535</sup> DFE002025; INQ006607

<sup>536</sup> INQ006502

<sup>537</sup> INQ006502\_099-117 paras 427-463

## The local authority designated officer: role and guidance

7. The role of the local authority designated officer (LADO) was introduced in the *Working Together* guidance in 2006 to manage allegations of abuse against people working with children.<sup>538</sup> Before 2006, schools were asked to report allegations about staff to the local authority, in line with local Area Child Protection Committee procedures.<sup>539</sup> In the latest 2018 version of *Working Together*, the LADO is described as:

*“a particular officer, or team of officers (either as part of multi-agency arrangements or otherwise) ... involved in the management and oversight of allegations against people who work with children. Any such officer, or team of officers, should be sufficiently qualified and experienced to be able to fulfil this role effectively, for example qualified social workers. Any new appointments to such a role, other than current or former designated officers moving between local authorities, should be qualified social workers. Arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer, or team of officers, without delay.”*<sup>540</sup>

KCSIE 2021 contains more detail about the role of the LADO (referred to as the ‘designated officer’) where allegations are made against school staff, supply teachers and volunteers.

## Responding to allegations about staff and volunteers in schools

8. Part four, section one of KCSIE 2021 concerns the management of allegations that might indicate a person would pose a risk of harm if they continue to work with children in a school. School procedures should make it clear to whom staff should report safeguarding concerns or allegations about another staff member (including supply staff or volunteers), and that reports should be made without delay.<sup>541</sup>

9. The headteacher (or chair of governors, where the allegation is about the headteacher) should refer to the LADO any allegations that an adult working in a school has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children; or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.<sup>542</sup>

10. The decision about whether the allegation meets the criteria for referral is for the headteacher or the chair of governors to take. The guidance does not suggest that the LADO is involved in the decision about whether or not to make a referral except where the headteacher or governor is assessing whether behaviour outside the school might indicate that an individual may not be suitable to work with children.<sup>543</sup>

<sup>538</sup> DFE002073\_127 para 545

<sup>539</sup> DFE002006\_017-018 para 11

<sup>540</sup> DFE003363\_057 para 5

<sup>541</sup> INQ006502\_082 para 341

<sup>542</sup> INQ006502\_081 para 338

<sup>543</sup> INQ006502\_082 para 340

**11.** In several of the schools examined, headteachers said that they were confused about when an allegation met the threshold for referral and they were unaware that they could contact the LADO for informal advice.<sup>544</sup> A clear statement in the guidance to the effect that the LADO can be contacted for informal advice in all circumstances where the headteacher is uncertain about whether a formal referral is necessary would ensure that referrals are made whenever appropriate.

**12.** The LADO has overall responsibility for the procedures for dealing with an allegation once it has been referred.<sup>545</sup> The LADO does not investigate the allegation but involves the police and/or children's social care. Where the LADO has reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm, they must call a multi-strategy meeting.<sup>546</sup>

**13.** KCSIE 2021 states that:

*"where it is clear that an investigation by the police or children's social care services is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the case manager."*<sup>547</sup>

**14.** The guidance then considers two possible scenarios: further enquiries or no further action.<sup>548</sup> It states that if further enquiries need to be made, the LADO should discuss with the school how and by whom the investigation should be carried out.<sup>549</sup> Straightforward investigations can usually be carried out by the school itself but more complex ones might require an independent investigation.<sup>550</sup> The guidance suggests ongoing discussions between the LADO and the school once an allegation is passed back to the school.<sup>551</sup> However, whether this takes place may depend on the relationship between the LADO and the school and the time available to the LADO.

**15.** There are five potential outcomes to an investigation of an allegation. These are that the allegation is:

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence; or,
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made."<sup>552</sup>

**16.** At the conclusion of a case in which an allegation against a member of staff is substantiated, the 'case manager' (usually the headteacher) should review the circumstances with the LADO to determine whether there are any improvements to be made to the

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<sup>544</sup> Christopher Hood 20 November 2020 82/3-5; Mark Moore 18 November 2020 82/7-20

<sup>545</sup> INQ006502\_084 para 355

<sup>546</sup> Section 47 of the Children Act 1989

<sup>547</sup> INQ006502\_083 para 350

<sup>548</sup> INQ006502\_083-084 paras 351-355

<sup>549</sup> INQ006502\_084 para 352

<sup>550</sup> INQ006502\_084 paras 352-353

<sup>551</sup> INQ006502\_084 para 355

<sup>552</sup> INQ006502\_090 para 381

school's procedures or practice to help prevent similar events in the future.<sup>553</sup> There is no requirement to hold such a meeting where the investigation has identified weaknesses in the school's safeguarding policy or practice but the allegation has not been substantiated.

**17.** Records must be kept of all allegations that meet the criteria for referral to the LADO. The guidance states that allegations subsequently found to be malicious or false should be removed from personnel records.<sup>554</sup>

## Low-level concerns

**18.** Prior to KCSIE 2021, the statutory guidance did not deal explicitly with how schools should respond to allegations and concerns which did not meet the harm threshold and which therefore did not need to be referred to the LADO.

**19.** KCSIE 2021 now refers to concerns which do not meet the criteria for referral to the LADO as low-level concerns. It states that a low-level concern is any concern:

*“no matter how small, and even if no more than causing a sense of unease or a ‘nagging doubt’ – that an adult working in or on behalf of the school or college may have acted in a way that:*

- *is inconsistent with the staff code of conduct, including inappropriate conduct outside of work, and*
- *does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.”<sup>555</sup>*

KCSIE gives examples of low-level concerns such as staff being over friendly with children, having favourites, taking photographs of children on their mobile phone, engaging one-to-one with a child in a secluded place or using inappropriate sexualised, intimidating or offensive language.<sup>556</sup> However, the last example would seem to meet the threshold for referral to the LADO, as it may indicate that the individual may not be suitable to work with children.

**20.** Schools are required to have appropriate policies and processes in place to manage and record any low-level concerns and take appropriate action to safeguard children, as part of their whole-school approach to safeguarding.<sup>557</sup> Governors and proprietors should set out the low-level concerns policy within the staff code of conduct, together with an explanation of its purpose, which is:

*“to create and embed a culture of openness, trust and transparency in which the school's or college's values and expected behaviour which are set out in the staff code of conduct are constantly lived, monitored and reinforced by all staff.”<sup>558</sup>*

<sup>553</sup> INQ006502\_094 paras 402–403

<sup>554</sup> INQ006502\_093 para 397

<sup>555</sup> INQ006502\_095 para 409

<sup>556</sup> INQ006502\_095 para 410

<sup>557</sup> INQ006502\_094-095 para 406

<sup>558</sup> INQ006502\_096 para 413

**21.** The guidance requires all low-level concerns, including self-reporting by staff, to be shared with the designated safeguarding lead (DSL), who should keep a confidential record.<sup>559</sup> Records should be reviewed by the DSL to identify patterns of concerning, problematic or inappropriate behaviour. If such a pattern is identified, it may necessitate disciplinary action or referral to the LADO if it appears to meet the allegation threshold.<sup>560</sup>

**22.** Although at the time of this investigation's public hearings in 2019 and 2020, statutory guidance did not require or even refer to a low-level concerns policy, some of the schools examined had in place a reporting system for low-level concerns, also known as neutral notification.<sup>561</sup> Evidence was provided by residential special schools and some residential specialist music schools which had put in place procedures for reporting low-level concerns.<sup>562</sup> The schools told the Inquiry that such a system encouraged a culture of reporting and being open about concerns. This was emphasised by Ms Carol Povey, director of the Centre for Autism at the National Autistic Society, who said that in National Autistic Society schools "*we would rather over-report than under-report*".<sup>563</sup> Such systems are particularly important in special schools, where some children are less able to report problems to staff. Encouraging all staff to report changes in behaviour of children or small breaches of the code of conduct increases the likelihood that abuse will be uncovered.

**23.** At Wells Cathedral School, Mrs Helen Bennett, the DSL from 2006 to 2016, encouraged all staff to report any concerns about staff behaviour to her. She kept detailed notes of these concerns in a confidential file and reviewed these regularly to identify any patterns of behaviour. Mrs Bennett was able to discuss concerns with the headteacher and deputy headteacher who could take appropriate action with the staff member concerned.<sup>564</sup> When Mrs Bennett retired in 2016, Wells Cathedral School continued the system, introducing an online neutral notification form to enable recording and cross-referencing of concerns.<sup>565</sup>

**24.** At the Royal School Manchester, where the majority of pupils do not communicate verbally, the school has taken a variety of measures to try and ensure that the pupils feel able to report how they feel and staff are aware of the importance of reporting concerns. Posters set out in clear pictorial images what pupils should do if they are feeling sad, hurt, scared or worried.<sup>566</sup> The staff ID cards which every member of staff have to wear<sup>567</sup> all have printed on them the four Rs: "*Recognise the signs and indicators of abuse; Respond as soon as possible; Record everything you have seen, heard or said and any actions; Refer to the designated person*". The mobile number for the designated person is on the card.<sup>568</sup> There is no single way to ensure that a culture of reporting is created in a school but clear signs and signals that reporting is encouraged can be effective. Jolanta McCall, the chief executive and principal of the Seashell Trust which runs the Royal School Manchester, stated that staff are told: "*if you feel uncomfortable, if you feel that there is something not right, tell us about this because we can do something*".<sup>569</sup>

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<sup>559</sup> INQ006502\_097 paras 418–419

<sup>560</sup> INQ006502\_097 para 420

<sup>561</sup> EWM000473\_106-107 para 339

<sup>562</sup> Jolanta McCall 10 October 2019 154/7-9; Karen Gaster 9 October 2019 21/20-22/16; Alistair Tighe 2 October 2019 181/1-15; Paul Bambrough 4 October 2019 83/2-14

<sup>563</sup> Carol Povey 7 October 2019 113/19

<sup>564</sup> See Part B paras 37–38

<sup>565</sup> Alistair Tighe 2 October 2019 180/21-181/15

<sup>566</sup> SST000086\_001

<sup>567</sup> Jolanta McCall 10 October 2019 165/2-6

<sup>568</sup> SST000085\_001\_002

<sup>569</sup> Jolanta McCall 10 October 2019 165/15-21

**25.** Mr Marcus Erooga, an independent safeguarding consultant, told the Inquiry that the purpose of a neutral notification policy is to help create a “*safer and more open culture*”.<sup>570</sup> The term ‘neutral notification’ is intended to address the concern or reticence staff may feel about ‘reporting allegations’ about colleagues and to avoid any implication that sharing a low-level concern amounts to making an accusation against a colleague, which may discourage reporting by staff. KCSIE 2021 does not make it sufficiently explicit that reporting low-level concerns can be a neutral act rather than an allegation of wrongdoing and that instances of behaviour which need to be reported may be innocent or well intentioned. In this respect, it misses the nuance of neutral notification as described by Mr Erooga. Framing notification as a neutral act is an essential part of creating an open and transparent safeguarding culture where staff are able to report any concerns, including the self-reporting of incidents.<sup>571</sup>

**26.** Mr James Robinson, policy and strategic lead for children and young people at Mencap, considered that good reporting within a school was about:

*“embedding a culture within a school to have that self-reflection, to have that monitoring reporting, without the fear of sanctions”.*<sup>572</sup>

**27.** Ms Sheila Smith, director of children services in North Somerset Council, has been part of the development of North Somerset Council’s child protection knowledge base and systems over the last 40 years. She said that “*A healthy organisational culture with an open, shared value base, that doesn’t lose sight of its goals, that has a clear moral code and a reflective but challenging ethos would have to be present or capable of being present in order for a neutral notification/low level notification approach to be successful.*”<sup>573</sup>

**28.** It was clear that a low-level concern policy was not, in itself, a solution to a poor safeguarding culture within a school. Discussing some of the issues with poor reporting at Hillside First School, Headlands School and Clifton College, Mr Erooga considered that “*culture cannot be imposed or created by edict*”<sup>574</sup> and concluded that:

*“in a dysfunctional organisation the introduction of neutral notification is unlikely to improve matters, and indeed could potentially add further dysfunctionality by causing, or adding to, an atmosphere of blame or mistrust.”*<sup>575</sup>

**29.** The new requirements in KCSIE 2021 to report low-level concerns have been imposed upon all schools, regardless of whether their existing organisational culture is such that a low-level concerns policy is likely to be effective and successful.

**30.** In schools which had introduced a neutral notification system, staff engagement was seen as important to its effectiveness,<sup>576</sup> with staff contributing to the framework and implementation of the system, as well as defining the values underpinning it. KCSIE contains no guidance as to what preparation may be needed before schools formulate and implement a low-level concerns policy, or how to approach training to ensure that staff understand its importance and purpose.

<sup>570</sup> EWM000473\_114-115 para 363

<sup>571</sup> EWM000473\_115-123 paras 364–391

<sup>572</sup> James Robinson 7 October 2019 115/3-8

<sup>573</sup> NSO000041\_015 para 10.2.2

<sup>574</sup> EWM000473\_121 para 385

<sup>575</sup> EWM000473\_128 para 410

<sup>576</sup> EWM000473\_120 para 382



**31.** However, it should be noted that a low-level concerns policy may not prevent child sexual abuse by a determined perpetrator. At Wells Cathedral School, staff reported low-level concerns about the conduct of Julien Bertrand to the safeguarding lead and the senior leadership team over a period of two years. Bertrand was spoken to on several occasions and given an informal warning and reminded of the importance of boundaries and the school rules, but this did not deter Bertrand, who continued to sexually abuse RS-A202 until the abuse was disclosed to a trusted adult in 2005.<sup>577</sup>

### Incidents of harmful sexual behaviours between pupils

**32.** Part five of KCSIE 2021 contains guidance for schools on responding to incidents of harmful sexual behaviour between pupils. It also refers schools to more detailed guidance, *Sexual violence and sexual harassment between children in schools and colleges*.<sup>578</sup>

**33.** KSCIE 2021 sets out that schools should adopt a zero-tolerance approach to sexual violence and sexual harassment:

*“Schools and colleges not recognising, acknowledging or understanding the scale of harassment and abuse and/or downplaying some behaviours related to abuse can lead to a culture of unacceptable behaviour, an unsafe environment and in worst case scenarios a culture that normalises abuse leading to children accepting it as normal and not coming forward to report it.”<sup>579</sup>*

When an allegation is made, immediate consideration should be given to how best to support and protect the victim and the alleged perpetrator.<sup>580</sup>

**34.** The test for whether the matter should be referred to children’s social care is that “a child has been harmed, is at risk of harm, or is in immediate danger”.<sup>581</sup> KCSIE 2021 stipulates that “Where a report of rape, assault by penetration or sexual assault is made, the starting point is this should be passed on to the police”. This should be done in parallel with a report to children’s social care.<sup>582</sup>

**35.** The *Review of sexual abuse in schools and colleges* undertaken by the Office for Standards in Education, Children’s Services and Skills (Ofsted) in June 2021 found that:

*“When it comes to sexual violence, it appears that school and college leaders are increasingly having to make difficult decisions that guidance does not equip them to make. For example, some school and college leaders told us that they are unsure how to proceed when criminal investigations do not lead to a prosecution or conviction. Schools and colleges should not be left to navigate these ‘grey areas’ without sufficient guidance. Furthermore, the current guidance does not clearly differentiate between different types of behaviour or reflect the language that children and young people use, particularly for online sexual abuse”.*<sup>583</sup>

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<sup>577</sup> See Part B para 35

<sup>578</sup> DFE002025

<sup>579</sup> INQ006502\_100 para 435

<sup>580</sup> INQ006502\_104 para 448

<sup>581</sup> INQ006502\_107 para 3

<sup>582</sup> INQ006502\_108 para 4

<sup>583</sup> INQ006509\_004

**36.** KCSIE 2021 addresses some of the shortcomings of previous guidance highlighted in Ofsted’s review, amending the terminology used for online sexual abuse, incorporating some of the information gathered by the review and giving more detail for schools to signpost victims to help and support. Nevertheless, there remain ‘grey areas’ in which schools are left without sufficient guidance.

### E.3: Allegations and concerns in the schools examined

#### No procedures or inadequate procedures

**37.** In some of the schools examined, school leaders had no understanding of the need for recording and reporting concerns and allegations against staff at all, and had no systems in place. This was the case well after guidance made it clear that schools needed to be alert to signs of abuse and have systems in place to deal with concerns and allegations against staff.

**38.** Mr Anthony Halford was the headteacher of Headlands School, Bridlington, from April 1991 to July 2004. He said that, while he was headteacher, the school had no written procedures dealing with allegations against staff.<sup>584</sup> He said that he was “*more concerned about false allegations against staff or harm to children from families*”.<sup>585</sup> At the time, the Department for Education and Employment’s Circular 10/95 (*Protecting Children from Abuse: The Role of the Education Service*) required schools to have a procedure for dealing with allegations of abuse against staff. However, this was not incorporated into the school’s procedures and Mr Halford did not know about the guidance for headteachers contained within it.<sup>586</sup>

**39.** Dr Stephen Rogers, who was headteacher at Headlands School from 2004 to 2008, confirmed that there were no procedures for handling allegations against staff when he arrived.<sup>587</sup> He described allegations against staff as a “*blind spot*”, and said that there was a tolerance of blurred boundaries and staff/student relationships that were over-familiar or informal.<sup>588</sup> He described a “*lack of professional common-sense ... amongst a group of staff at the school*”.<sup>589</sup> This is unsurprising given that the school had no procedures for reporting allegations against staff members and that staff had received no direction from the previous headteacher on these issues.

#### No staff code of conduct

**40.** At Chetham’s School of Music, the headteacher introduced a staff code of conduct in 1995 following the resignation of the director of music, Michael Brewer, who had been conducting an abusive sexual relationship with a sixth-form pupil. Prior to Brewer’s resignation, there had been no code of conduct or other document setting out guidance and expectations regarding staff interactions with pupils.<sup>590</sup> The staff code of conduct drafted in 1995 was not clear or specific regarding appropriate behaviour with students.<sup>591</sup> Statutory guidance published in 1995 suggested that it may be “*helpful*” for schools to draw up a code

<sup>584</sup> Anthony Halford 19 November 2020 7/7-21

<sup>585</sup> Anthony Halford 19 November 2020 8/10-12

<sup>586</sup> Anthony Halford 19 November 2020 12/16-21

<sup>587</sup> Stephen Rogers 19 November 2020 41/21-24

<sup>588</sup> Stephen Rogers 19 November 2020 39/22-23, 40/20

<sup>589</sup> Stephen Rogers 19 November 2020 41/1-3

<sup>590</sup> Peter Hullah 1 October 2019 179/6-9

<sup>591</sup> Peter Hullah 1 October 2019 200/16-201/25



of conduct in consultation with the local authority but it was not mandatory.<sup>592</sup> KCSIE 2021 now requires schools to have a staff code of conduct, so that the boundaries of acceptable behaviour with children are made clear. A low-level concerns/neutral notification policy relies on the existence of a staff code of conduct to set out acceptable behaviour.

### Failure to make and keep records

**41.** During Mr Peter Crook's time as headteacher of The Purcell School for Young Musicians (the Purcell School), 2007–2011, there was poor recording of allegations against staff. In January 2009, an allegation of sexual abuse of a student by RS-F20, a staff member at the Purcell School, was referred to the LADO from outside the school. The LADO found that the allegation was unfounded and it was referred back to the school. A very similar allegation was made against RS-F20 in 2014, but no records of the 2009 allegation could be found at the school. Guidance at the time required a "*clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached*", to be kept on the personnel file for at least 10 years or until the individual reached retirement age.<sup>593</sup> In October 2009, Mr Crook found a member of staff, RS-F80, alone with a pupil, RS-A192, on the school field in the dark.<sup>594</sup> Mr Crook arranged for RS-F80 to receive further safeguarding training but did not make a note of the incident and the action taken until RS-A192 disclosed in May 2010 that she had been sexually abused by RS-F80 on that occasion and had been in an abusive relationship with RS-F80 over several months.<sup>595</sup>

### Staff failure to report concerns and allegations

**42.** At Hillside First School there was a failure to report safeguarding concerns about Nigel Leat. The serious case review in 2012 identified at least 30 incidents where individuals had a concern about Leat between 2000 and 2010.<sup>596</sup> Only 11 of those concerns were reported to the headteacher or deputy headteacher (both of whom held the role of DSL at points during that period).<sup>597</sup> There were more than 20 incidents of staff and volunteers witnessing tactile behaviour, favouritism or unusual behaviour with young female pupils which were not reported within the school. For example, there were two incidents in the 2009/10 school year – first where a teacher saw a child sitting on Leat's lap at the piano while the rest of the class were moving about the classroom, and the second where the same teacher went into the computer room where Leat was teaching his class and saw him sitting in the corner with the same child. He "*moved quickly*" and "*seemed flustered*" when he saw the teacher and she "*formed the impression that NL was doing something that he did not want her to see but she did not determine what this was*".<sup>598</sup>

**43.** These incidents<sup>599</sup> went unreported despite there being detailed and specific guidance in place by 2005<sup>600</sup> setting out signs and conduct which suggested that an individual might be unsuitable to work with children (safer working practice guidance).<sup>601</sup> The guidance included

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<sup>592</sup> DFE002006\_012 paras 51–52

<sup>593</sup> INQ006348\_066 para 5.10

<sup>594</sup> PUR000902\_006

<sup>595</sup> PUR000905\_001; PUR001247\_006 para 27

<sup>596</sup> DFE002197\_007-008 para 26

<sup>597</sup> DFE002197\_008 para 27

<sup>598</sup> OFS011782\_015 para 2.38.1

<sup>599</sup> For a more detailed list of the incidents see Part B paras 115–129 and DFE002197.

<sup>600</sup> OFS011782\_018

<sup>601</sup> DFE003164

the following as potentially problematic: teachers having favourites and giving children gifts;<sup>602</sup> physical contact which occurs regularly with an individual child;<sup>603</sup> transporting young people outside of their normal duties;<sup>604</sup> and taking photographs and videos of children.<sup>605</sup>

**44.** Following Leat's arrest in 2010, at least nine staff members told the police that it was common knowledge, and had been for some time, that Leat had favourites who were always girls.<sup>606</sup> It also emerged that the safer working practice guidance had not been disseminated to staff at Hillside First School when it was re-issued in 2009 and sent by the local authority to the school.<sup>607</sup> Mr Christopher Hood, the school's headteacher between 2002 and 2011, was unable to recall whether staff had been told about the guidance from 2005.<sup>608</sup>

**45.** Mr Hood said that it was only after he had left Hillside First School (in 2011) that a series of high-profile cases made people more aware of the possibility that adults in schools could abuse children.<sup>609</sup> He said that:

*"there was an unfortunate cultural feeling in Hillside where people felt, you know, this isn't – they didn't know. They weren't seeing somebody who was being evil."*<sup>610</sup>

**46.** In May 2010, at the Purcell School, RS-A187, a sixth-form pupil aged under 18, disclosed to a non-teaching member of staff that she had been in an inappropriate sexual relationship with a member of staff for several months. RS-A187 spoke to several other members of staff and telephoned Childline before the headteacher and DSL were made aware two days later, when the school notified the LADO of the allegation.<sup>611</sup> Statutory guidance required allegations to be reported straight away to the headteacher, in order for the headteacher to make a referral to the LADO.<sup>612</sup>

### School leaders failing to refer allegations

**47.** In 2008, five different individuals at Hillside First School reported to Ms Michelle Bamford, the deputy headteacher who was the DSL at the time, that they were concerned about how Leat treated RS-A320. One of the people who voiced concerns was a college tutor of a trainee teacher who said that the relationship between Leat and RS-A320 was "a bit close for comfort".<sup>613</sup> There were concerns about the physical contact between Leat and RS-A320 which made the trainee teacher feel "uneasy".<sup>614</sup> Another teacher reported that RS-A320 was always with Leat and given special jobs, including marking other children's external exam papers.<sup>615</sup> Neither Ms Bamford nor Mr Hood reported this to the LADO.

<sup>602</sup> DFE003164\_018

<sup>603</sup> DFE003164\_023

<sup>604</sup> DFE003164\_034

<sup>605</sup> DFE003164\_036

<sup>606</sup> OHY009387\_025, 034; OHY009388\_004, 007; OHY009388\_009-011, 016, 020, 024; OHY009386\_015

<sup>607</sup> OFS011782\_019

<sup>608</sup> Christopher Hood 20 November 2020 132/10-18

<sup>609</sup> Christopher Hood 20 November 2020 142/17-143/3

<sup>610</sup> Christopher Hood 20 November 2020 143/1-7

<sup>611</sup> PUR000902\_010; PUR000905\_001-002

<sup>612</sup> INQ006348\_064 para 5.2

<sup>613</sup> DFE003202\_003

<sup>614</sup> DFE003202\_003

<sup>615</sup> DFE003202\_003

**48.** Ms Bamford said that she was unaware that she could refer directly to the local authority, and that it was “*very much the culture of the school*” that all allegations and concerns were reported to Mr Hood.<sup>616</sup> In 2008, the annex to *Safeguarding Children and Safer Recruitment in Education* (2007) set out that it would have been the responsibility of the DSL (Ms Bamford) to refer allegations that met the threshold to the LADO, but the main body of the guidance stated that allegations should be reported to the headteacher.<sup>617</sup> From 2007, it was clear that concerns about a teacher’s suitability to work with children should be referred to the LADO. Ms Sheila Smith, director of people and communities at North Somerset Council, told the Inquiry:

*“if you refer back to the Safeguarding Children’s Safer Recruitment, 2007, back in that, they say even allegations that appear less serious should be seen to be followed up. The local authority or designated officer should be informed of all allegations. And that was about people where it’s about, ‘may be unsuitable to work with children’. That document set out a level, a bar, that was quite low, in my view, in my professional view. I think – ‘who may be unsuitable to work with children’ is not the same as ‘who may harm children’ ... Depressingly, that was around from 2007, and yet that didn’t percolate.”<sup>618</sup>*

**49.** It was the responsibility of local authorities (in this case North Somerset Council) to ensure that the guidance did “*percolate*” in maintained schools. The statutory guidance made clear that it was the responsibility of the local authority to monitor the compliance of maintained schools with the guidance, including the training of staff and the DSL. This responsibility extended to bringing any deficiencies in safeguarding to the attention of the governing body, and advising on remedial action.<sup>619</sup>

**50.** Mr Hood did not feel that North Somerset Council had made the role of the LADO clear to him. He described the LADO as:

*“an inaccessible sort of person. We never saw the LADO or any of these officers in our schools. We only ever saw social workers and – in support of children who had been abused at home.”<sup>620</sup>*

**51.** In 2002 or 2003, Mr Halford, the headteacher of Headlands School, received an allegation from the parents of a pupil that a teacher had kissed their daughter. He sought to resolve the issue by arranging a meeting between the teacher and the parents.<sup>621</sup> He did not place any notes of the allegation or the meeting on the teacher’s file. He did not notify the local authority, in breach of the statutory guidance, which required the headteacher to establish contact with the local authority in the event of an allegation.<sup>622</sup> Dr Rogers, who took over as headteacher in 2004, stated that he understood that allegations against staff should be recorded and referred immediately, and he was aware of who to speak to at the local authority should he have “*any concerns*”.<sup>623</sup> However, he failed to report an allegation against Mr Ian Blott in 2004, when a friend of RS-A303 disclosed that RS-A303 was in an abusive sexual relationship with Blott. Dr Rogers stated that it was not presented to him

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<sup>616</sup> Michelle Bamford 23 November 2020 75/14-15

<sup>617</sup> INQ006348\_089; OFS012669\_007 para 25; DFE003202\_003

<sup>618</sup> Sheila Smith 23 November 2020 27/9-22

<sup>619</sup> OFS012669\_007 para 24

<sup>620</sup> Christopher Hood 20 November 2020 127/13-16

<sup>621</sup> Anthony Halford 19 November 2020 22/1-24

<sup>622</sup> Anthony Halford 19 November 2020 23/4-23; DFE002006

<sup>623</sup> Stephen Rogers 19 November 2020 42/18-20

as an allegation in 2004 but his notes record “no action then. No disclosure from [RS-A303]. Denial”.<sup>624</sup> He accepted that, with “hindsight”, he should have referred the allegation to the local authority.<sup>625</sup>

**52.** In February 2015, the headteacher of Clifton College, Mr Mark Moore, allowed a member of staff, RS-F82, to resign after a disciplinary hearing found that he had been making improper use of the school internet. An internet search log showed that RS-F82 had been using search terms including “cute young teen boys”, “pederast” and “erotica”.<sup>626</sup> Mr Moore’s note of the investigation concluded that the searches:

*“for concern in a school context ... occurred only on one occasion, lasted for less than a minute and were not repeated. We concluded that this level of activity was not a cause for concern.”*<sup>627</sup>

In October 2015, Mrs Jo Newman, the new DSL for the school, undertook a review of files, including the disciplinary files relating to RS-F82. She said that she was “horrificed” to read Mr Moore’s note and considered that the search terms indicated RS-F82 may have tried to access indecent images of children.<sup>628</sup> Mrs Newman considered that the information available to Mr Moore revealed “really serious” concerns, as RS-F82 had been a member of support staff with access to children in the school.<sup>629</sup> Mrs Newman immediately referred RS-F82’s case to the LADO and also completed a referral to the Disclosure and Barring Service, as required by KCSIE. This action should have been taken in February 2015 by Mr Moore.

## Whistleblowing

**53.** In some cases, staff may not feel able to use the usual procedure for reporting allegations and concerns about colleagues. For example, staff may be concerned that school leaders may not refer allegations to the appropriate authorities or that staff may suffer negative consequences for reporting concerns or allegations about a staff member or school leader.

**54.** Guidance from 2007, *Safeguarding Children and Safer Recruitment in Education*, set out that schools should have appropriate whistleblowing procedures in place.<sup>630</sup>

**55.** In 2009 to 2010, staff at the Purcell School reported concerns to the chair of governors that the headteacher, Peter Crook, used sexually explicit and inappropriate language with children at the school. The concerns included a meeting that Mr Crook conducted with the Year 9 boys who boarded, held at his private residence on a Sunday evening, which he later suggested was a personal, social and health education (PSHE) class in response to an incident of sexualised bullying in a boarding house. Ms Margaret Moore, a teacher, reported her concerns about the ‘PSHE class’ anonymously to the chair of governors, Mr Graham Smallbone, because she had “a genuine fear of reprisal by the headmaster”.<sup>631</sup> Twenty-five members of staff then sent an anonymous letter as the “Staff Association” to Mr Smallbone stating that this incident “is only one of a number of disturbing interactions between the Headmaster and Purcell students on the subject of human sexuality” and concluding that it

<sup>624</sup> Stephen Rogers 19 November 2020 46/4-5

<sup>625</sup> Stephen Rogers 19 November 2020 49/11

<sup>626</sup> Jo Newman 17 November 2020 140/9-15

<sup>627</sup> Jo Newman 17 November 2020 141/7-10

<sup>628</sup> Jo Newman 17 November 2020 141/15

<sup>629</sup> Jo Newman 17 November 2020 142/14-24

<sup>630</sup> INQ006348\_025\_039 paras 2.27 and 3.51

<sup>631</sup> INQ004382\_001

was an issue which concerned “*children at risk*”.<sup>632</sup> The letter was sent anonymously for fear of reprisal by the school.<sup>633</sup> Mr Smallbone told the Inquiry that he did not take any action because the whistleblowers wished to remain anonymous.<sup>634</sup> Mr Smallbone discussed the complaints with Mr Crook<sup>635</sup> but did not refer any complaints to the LADO,<sup>636</sup> despite guidance in place at the time requiring a referral to be made to the local authority without discussing the allegation with the person concerned.<sup>637</sup>

**56.** Following Mr Smallbone’s failure to refer the allegations to the LADO, staff members reported a number of incidents anonymously to Ofsted and the local authority. The local authority found one allegation substantiated in July 2009 and advised that the headteacher should face disciplinary action.<sup>638</sup> The local authority also advised that the ‘PSHE class’ was not an appropriate or sufficient response to bullying<sup>639</sup> and that Mr Crook had breached “*appropriate boundaries between staff and students*” but concluded that there had been no intent to harm children and therefore that allegation was “*unfounded*”.<sup>640</sup> The local authority did not appear to have considered whether the incident indicated that the headteacher may have been unsuitable to work with children, although this was a criteria for referral in the statutory guidance at the time<sup>641</sup> but it did advise that the language used was inappropriate and should be dealt with through internal disciplinary procedures.<sup>642</sup>

**57.** Mr Smallbone told the Inquiry that the staff members who reported the concerns about the headteacher were whistleblowers but that he nevertheless considered that “*it would have been totally wrong to discipline the headmaster and not the members of staff*”.<sup>643</sup> The LADO advised Mr Smallbone that disciplining the whistleblowers would be disproportionate and reminded him that staff must be able to challenge poor practice.<sup>644</sup>

**58.** Although staff were attempting to follow procedures and raise safeguarding concerns about the headteacher with the chair of governors, their concerns were not dealt with properly, despite the fact that the 2007 statutory guidance required schools to have appropriate whistleblowing procedures in place.<sup>645</sup> There was an attempt to stifle the reporting of concerns internally and to characterise them to external bodies as malicious attempts to undermine the headteacher, who was making changes to the school which were unpopular with some staff.<sup>646</sup> Suspected whistleblowers were required to attend an “*intimidating*” meeting with governors.<sup>647</sup>

## Failure to take internal action

**59.** Schools have not always carried out disciplinary investigations or taken appropriate disciplinary action when a LADO refers a case back to them. Mr Crook was never made the subject of any internal disciplinary sanction for incidents of inappropriate conversation with

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<sup>632</sup> PUR001145\_001

<sup>633</sup> Margaret Moore 4 October 2019 17/13-18/4

<sup>634</sup> Graham Smallbone 3 October 2019 154/18-155/11

<sup>635</sup> Graham Smallbone 3 October 2019 150/11-22

<sup>636</sup> Graham Smallbone 3 October 2019 157/1-13

<sup>637</sup> INQ006348\_067-068 para 5.16

<sup>638</sup> HDC000014; HDC000046\_007 para 4.6

<sup>639</sup> HDC000024\_003

<sup>640</sup> HDC000046\_008 paras 4.10–4.11

<sup>641</sup> INQ006348\_063-064; HDC000024\_003

<sup>642</sup> HDC000046\_008 para 4.12

<sup>643</sup> Graham Smallbone 3 October 2019 186/11-13

<sup>644</sup> Graham Smallbone 3 October 2019 185/1-186/14

<sup>645</sup> INQ006348\_025 para 2.27

<sup>646</sup> PUR000455\_004

<sup>647</sup> Margaret Moore 4 October 2019 21/3-22/17, 23/11-24/24, 27/8-19

children at the school. During the same period, in 2009, an allegation of a staff member engaging in sexual activity with a student was referred to the LADO from outside the Purcell School.<sup>648</sup> The student would not support a prosecution. The allegation was considered by the strategy meeting to be “unfounded” (“*this indicated that the person making the allegation misinterpreted the incident or was mistaken about what they saw .... For an allegation to be classified as unfounded it will be necessary to have evidence to disprove the allegation*”<sup>649</sup>) and referred back to the school as an internal matter to address “unsafe practice”.<sup>650</sup> The staff member had admitted to police that his relationship with the student was “too close” and that he had hugged and kissed the student on the cheek after rehearsals at his house.<sup>651</sup> Although the original allegation was considered unfounded, the school had information that a teacher had acted inappropriately, which should have given rise to a disciplinary investigation.

**60.** The current headteacher at the Purcell School, Mr Paul Bambrough, noted that in such circumstances it would be helpful to have further guidance from the LADO on how to proceed following an allegation being handed back to the school.<sup>652</sup> This is another area where schools are reliant on the LADO. Currently there is considerable variation between LADOs in terms of the time dedicated to helping schools once allegations are referred back to them.

## Responding to incidents of harmful sexual behaviour between pupils

**61.** A number of the residential special schools considered by the Inquiry provided evidence about how they recorded and responded to concerns about pupils displaying sexualised behaviour. Appletree School, Southlands School and the Royal School Manchester all had systems in place where such behaviour was recorded, discussed internally and then frequently referred to children’s social care for further consideration.

**62.** Appletree School provides care and education for children of primary school age, often children who have been subjected to neglect and abuse (including sexual abuse) before they are placed at the school.<sup>653</sup> This can lead to an increased frequency of sexualised behaviour from pupils whose past experiences had not taught them that such behaviour is inappropriate. In consequence, any incidents which could be deemed to be concerns about sexually harmful behaviour were discussed with the local authority.<sup>654</sup>

**63.** However, there was an incident in 2006 at Appletree when a staff member overheard a pupil accusing a pupil of “ *fucking* ” another child. The matter was not immediately referred to children’s social care; staff at Appletree School interviewed the children the following day and a referral was made a day later.<sup>655</sup> As set out in Part B, the fact that staff had interviewed the children was considered problematic by the local authority and the police.<sup>656</sup>

**64.** Triangle, an independent organisation that provides specialist services for children and young people with complex communication needs, was critical of guidance about what to do when a child makes a disclosure of abuse of any kind, describing it as “*part of the problem*”.<sup>657</sup>

<sup>648</sup> PUR001247\_004\_005\_006 paras 16–27

<sup>649</sup> HDC000046\_003-004 para 3.9

<sup>650</sup> HDC000046\_003

<sup>651</sup> Peter Crook 3 October 2019 102/7-10; HDC000006\_002

<sup>652</sup> Paul Bambrough 4 October 2019 84/13-22

<sup>653</sup> APP000064\_013

<sup>654</sup> APP000064\_22

<sup>655</sup> Clair Davies 8 October 2019 55/19-59/12

<sup>656</sup> CCC000007\_089; APP000020

<sup>657</sup> TRI000011\_014 para 44



Triangle set out that much of the available guidance is largely prohibitive, telling staff what they should not do (investigate, ask leading questions, extend the child's account) but not helping them to help the child without contaminating the evidence.<sup>658</sup>

## E.4: Lack of consistency between local authority designated officers

**65.** A close working relationship between schools and LADOs is a key component of a successful response to concerns and allegations. However, there is a great deal of variation across England in how LADOs engage with schools.

**66.** Research commissioned by the Inquiry from the National Centre for Social Research noted that "Schools reported variation across different local authorities in their thresholds for accepting referrals".<sup>659</sup> Both mainstream and special schools reported that concerns referred to local authorities sometimes did not reach their thresholds. This was sometimes felt to be due to variability in response across local authorities (despite working from the same statutory guidance), which was a source of frustration for participants, including a member of staff at a special school:

*"We've had an ongoing battle about the threshold. We report [and] they say, 'Oh, we don't want to know about that.' Then you have an inspector who says, 'You need to report it.' That discrepancy is just painful ... They may also differ between local authority and they disagree with what the inspector says ... and obviously these are low-level things that we do feel are important for our young people to get sorted. So we do report it."*<sup>660</sup>

**67.** Ms Karen Gaster, executive principal at Southlands School, gave evidence about the positive benefits of having a LADO who works closely with the school, can be contacted for informal advice and visits the school once a year: "when you have that professional dialogue, it encourages transparency, encourages that openness, and I think it's very supportive of the school".<sup>661</sup> The school worked with 26 local authorities and considered there was variation in terms of the level of response and engagement of different LADOs.<sup>662</sup>

**68.** The results of research commissioned by the Department for Education, published in March 2012, stated that local authorities were interpreting the guidance in respect of allegations against teachers in different ways.<sup>663</sup>

*"the guidance is being interpreted and implemented in different ways, resulting in a spectrum of support which ranges between what might be described as a 'rigid LA handling model' and a 'flexible LA handling model'. LAs operating a rigid approach encourage schools to refer all allegations to them irrespective of the degree of seriousness. These are then co-ordinated by the LADO and subject to the prevailing structured LA protocols which typically involve group conferences and strategy groups. This is a thorough but resource intensive model. At the other end of the spectrum LAs following a more flexible model have introduced elements of a devolved process for receiving and dealing with allegations. These LAs have established threshold criteria relating to*

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<sup>658</sup> TRI000011\_003 paras 7-9

<sup>659</sup> *Safeguarding children from sexual abuse in residential schools*, p14, para 9

<sup>660</sup> *Safeguarding children from sexual abuse in residential schools*, p20

<sup>661</sup> Karen Gaster 9 October 2019 21/7-9

<sup>662</sup> Karen Gaster 9 October 2019 38/12-39/7

<sup>663</sup> DFE003297

*the seriousness of the allegation and provide a support service to schools accordingly. Typically this will involve advising schools how to deal with less serious cases themselves. We are not clear on the relative balance between the rigid and more flexible models operating across LAs. However, purely from a resource perspective we suspect that the flexible model is likely to be the most prevalent.*<sup>664</sup>

**69.** The evidence indicates that, almost a decade later, there is still a lack of consistency in how the current guidance is interpreted by local authorities. It appears that many local authorities are operating what the Department for Education described as a ‘flexible model’ due to lack of resources or time. However, it appears that many schools need the guidance and advice afforded by the more ‘rigid’ model.

**70.** Ms Helen Humphreys, a specialist advisor for residential care at Ofsted, said that Ofsted’s inspections of local authorities’ children’s social care (including the LADO service) make clear that there is inconsistency in how LADOs carry out their role:

*“the problem is where you’ve got a weak LADO and you might have a school that is also weak in safeguarding and chooses not to raise things with the LADO, you’ve got some difficulties”.*<sup>665</sup>

**71.** Dr Patrick Roach, general secretary of the National Association of Schoolmasters Union of Women Teachers (NASUWT), also said that it was currently a “lottery” as to how LADOs worked with schools in their area.<sup>666</sup>

**72.** Ms Rhiannon Williams, deputy chief inspector of the Independent Schools Inspectorate, endorsed greater clarity for LADOs:

*“We would agree with the LADOs, and I think with all the other inspectorate evidence so far, that it would be really helpful to have national LADO training and guidance, greater national uniformity and to ensure that they are properly resourced in the local authorities”.*<sup>667</sup>

**73.** Mr Anthony Marsh, a safeguarding advisor/child protection officer and LADO for the East Riding of Yorkshire Council since 2006, said that different local authorities have different arrangements for their LADOs. He stated that the regional LADO networks and the National LADO Network are trying to make procedures and standards more uniform and consistent.<sup>668</sup> He considered that it would be helpful for LADOs to have a common audit tool.<sup>669</sup>

## E.5: Mandatory reporting

**74.** During the course of the investigation, some organisations and individuals suggested that a system of mandatory reporting would provide a solution to some of the failures to report that took place at the schools examined. Others disagreed that mandatory reporting would have helped and considered that it would not improve the procedures currently in place. Mandatory reporting will be considered in detail in the Inquiry’s final report.

<sup>664</sup> INQ006528\_003

<sup>665</sup> Helen Humphreys 24 November 2020 75/19-22

<sup>666</sup> Patrick Roach 23 November 2020 134/18

<sup>667</sup> Rhiannon Williams 27 November 2020 41/5-10

<sup>668</sup> Anthony Marsh 19 November 2020 93/21-94/11

<sup>669</sup> Anthony Marsh 19 November 2020 94/17-22



**75.** Those representing victims and survivors of sexual abuse linked to schools called for the government to introduce mandatory reporting in schools. Some advocated mandatory reporting, including:

- a statutory obligation to report known or suspected abuse of a child where there were reasonable grounds for suspicion;
- that the obligation applies to all people undertaking regulated activity (see Part I) who have “*personal responsibility for the care of children*”;
- legal immunity for those reporting on reasonable grounds; and
- a criminal sanction for failure to report.<sup>670</sup>

**76.** There was a mixed response to the issue of mandatory reporting from the teaching unions. Mr Paul Whiteman from the National Association of Head Teachers did not think there was sufficient evidence that it would make a difference at the moment. He considered that it needed further consideration.<sup>671</sup> Dr Patrick Roach of the NASUWT considered that a lot more work needed to be done to ensure that there were not unintended consequences. He considered that the experience of the NASUWT members was that it was not a failure to report so much as a failure to take appropriate action once something was reported which had caused problems. Dr Roach said that:

*“it could create a culture of inappropriate or defensive reporting within schools, which may not be conducive to the kind of school cultures that we would want to be seeing where there is, you know, a real sense of professional openness, transparency and collegiality in relation to working practices”.*<sup>672</sup>

He was also concerned that LADOs might be overwhelmed and the serious issues could be overlooked. He said that, while these are not reasons to discount mandatory reporting, they need to be carefully thought about.<sup>673</sup>

**77.** The Independent Schools Inspectorate considered that, from the perspective of school inspection, there was a mandatory duty on independent schools to report allegations of child sexual abuse to the LADO and to the police.<sup>674</sup> The Inspectorate considered that the obligation arose from paragraph 7 of the Independent School Standards which required the school to have regard to KCSIE, which in turn required a school to report an allegation of abuse where the threshold was met to either the LADO or the police unless it had a good reason not to report.<sup>675</sup> The Inspectorate stated that “*It is difficult to think of an example of a reason which inspectors would accept as a ‘good reason’ not to report an allegation of abuse*”.<sup>676</sup> Failure to comply with KCSIE would therefore result in a finding of non-compliance with the Independent School Standards and lead to the Department for Education taking regulatory action in respect of the school.<sup>677</sup> However, mandatory reporting regimes are usually backed by some form of sanction, professional or even criminal in nature. No such sanction is attached to the current statutory guidance.

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<sup>670</sup> INQ004829; INQ004838; INQ006384

<sup>671</sup> Paul Whiteman 23 November 2020 148/17-149/5

<sup>672</sup> Patrick Roach 23 November 2020 152/17-23

<sup>673</sup> Patrick Roach 23 November 2020 152/24-153/5

<sup>674</sup> ISI001574\_074 para 337

<sup>675</sup> ISI001574\_074-075 paras 339–341

<sup>676</sup> ISI001574\_074-075 para 341

<sup>677</sup> ISI001574\_075 para 342

**78.** The Independent Schools Inspectorate also considered that Part Two of the Teachers' Standards,<sup>678</sup> which set out professional and personal conduct, was wide enough to cover cases of not reporting abuse and could result in an individual being prohibited from teaching by the Teaching Regulation Agency.<sup>679</sup> As discussed in Part I, not all staff in schools are covered by the misconduct jurisdiction of the Teaching Regulation Agency.

**79.** Baroness Elizabeth Berridge, Minister at the Department for Education, told the Inquiry in November 2020 that the Department for Education was reviewing the information it had received following its consultation on the subject in 2018 and was waiting for the outcome of this Inquiry as well as considering a possible offence of concealment of abuse.<sup>680</sup>

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<sup>678</sup> INQ006602\_014

<sup>679</sup> ISI001574\_075 para 343

<sup>680</sup> Elizabeth Berridge 25 November 2020 74/24-75/10



Part F

# Leadership and governance in England

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# Leadership and governance in England

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## F.1: Introduction

1. This Part considers the safeguarding roles of school leaders, governors and proprietors of schools in England, who have specific responsibilities to ensure that appropriate systems are in place to protect children and young people from sexual abuse. Issues relating to the leadership and governance of schools in Wales are considered in Part J. The statutory framework is set out in more detail in Annexes 3 and 4.

## F.2: Key roles

### Headteachers and designated safeguarding leads

2. The headteacher and the designated safeguarding lead (DSL) have leadership responsibilities for the safeguarding arrangements in a school. In some schools, the headteacher may also serve as the DSL but usually these roles are separate.
3. The headteacher is a focal point for staff and students, acting as a role model to embody the values and ethos of the school. Headteachers need to have a thorough understanding and awareness of the importance of safeguarding in order to ensure that it is prioritised within the school. The Independent Schools Inspectorate (ISI) believed that school leadership style made a significant difference to effective safeguarding: *“If the leadership style of the head is not effective, it is more likely that child protection will not be fully effective”*. The ISI considered that the damaging effect on the safeguarding culture of a school of poor leadership by the headteacher could not necessarily be compensated by a committed and effective DSL.<sup>681</sup> The ISI stated that the key was for leaders to be authoritative but not authoritarian, *“open, approachable and collaborative in style”*, and to act as positive role models in relation to child protection and safeguarding.<sup>682</sup>
4. The DSL has lead responsibility for safeguarding and child protection. The headteacher supports the DSL and any deputy DSLs by ensuring that they have the authority, time and resources to carry out their roles effectively.

### Governors and proprietors

5. State-funded schools which are maintained by the local authority must have a governing body, which has an oversight function to ensure the school complies with its legal obligations, including safeguarding, and to hold the headteacher to account for the running of the school.

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<sup>681</sup> ISI002176\_031 para 127

<sup>682</sup> ISI002176\_031 paras 128–131

- 6.** Independent schools and academies are not required to have governing bodies.<sup>683</sup> These types of schools have proprietors. The governance of independent schools is for proprietors to decide. They are not legally obliged to adopt any particular form of governance, or indeed to have any governing body at all.<sup>684</sup>
- 7.** In academies, the proprietor is the academy trust, which is founded by members who have a duty to exercise their powers in line with the trust's charitable purpose. A trust board is the decision-making body of the trust, and has functions and responsibilities similar to a governing body.
- 8.** All independent schools must have a registered proprietor. The proprietor may be a company or an unincorporated group of individuals, a charitable trust, a board of governors, directors or trustees, or a combination of these, such as a company which is also a charity.<sup>685</sup> In these cases there is often a group which resembles a governing body.
- 9.** Some independent schools have a sole proprietor (an individual rather than a proprietor body) and have no oversight from any kind of board. The sole proprietor may also be the headteacher and the DSL. It is "*recognised good practice to have at least an advisory board*" in such schools<sup>686</sup> but this is not required either by the Independent School Standards (ISS) against which independent schools are inspected or by statutory guidance.
- 10.** Many independent schools are also charities and so have charity trustees. These trustees may set up a governing body to oversee the school. Those trustees must comply with charity law and may be the subject of regulatory action by the Charity Commission if they fail to discharge their duty of strategic oversight and management of safeguarding.<sup>687</sup> The Charity Commission publishes guidance concerning safeguarding<sup>688</sup> and would consider a failure by trustees to comply with this guidance and that set out by the Department for Education to be a potential breach of their duty as trustees.<sup>689</sup>
- 11.** Proprietors and governors must undergo 'suitability checks' which require 'enhanced' criminal record checks from the Disclosure and Barring Service (DBS; these checks are discussed further in Part I) and checks as to whether the individual is prohibited from managing a school under section 128 of the Education and Skills Act 2008 (or previous legislation). There are no DBS barred list checks for proprietors or governors because the roles are not deemed to be in 'regulated activity'. Inclusion on the children's barred list remains a bar to becoming a governor of a maintained school<sup>690</sup> but it is unclear how a school would become aware of this information as governors are not eligible for barred list checks.
- 12.** Ms Amanda Spielman, Her Majesty's Chief Inspector for Education, Skills and Children's Services, said that the Office for Standards in Education, Children's Services and Skills (Ofsted) does not believe enhanced DBS checks alone are sufficient to assess suitability of proprietors, and that full checks should be carried out even where proprietors are not

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<sup>683</sup> DFE002073\_149 para 644; INQ006521

<sup>684</sup> DFE002073\_149 para 644

<sup>685</sup> ISI001574\_049 para 218

<sup>686</sup> ISI001574\_050 para 220

<sup>687</sup> CYC000410\_013 para 38

<sup>688</sup> CYC000410\_006-007 paras 17-18

<sup>689</sup> CYC000410\_013 para 38

<sup>690</sup> Schedule 4, para 13 of The School Governance (Constitution) (England) Regulations 2012

undertaking regulated activity because proprietors are responsible for pupils' safety.<sup>691</sup> The ISI considered that there was scope to develop the regulatory framework to ensure proprietor-run schools met the safeguarding requirements.<sup>692</sup>

### F.3: Leadership

**13.** *Keeping Children Safe in Education 2021*, statutory guidance issued by the Department for Education, places a duty on headteachers to ensure that safeguarding policies and procedures adopted by local authorities, governing bodies or proprietors are followed by all staff.<sup>693</sup>

**14.** A positive culture of safeguarding can deter potential “*opportunistic sex offenders*”<sup>694</sup> by reducing the opportunities for abuse and increasing the likelihood of detection and reporting. Headteachers are responsible for creating the culture of the school and ensuring that safeguarding is understood and prioritised across the school. In some of the 12 schools examined in this investigation, there were examples of well-trained safeguarding staff, supported by a committed headteacher, contributing to a positive culture of safeguarding across the whole school. There was also evidence of shortcomings in the leadership of safeguarding which led to poor practice, missed opportunities to prevent abuse and inadequate protection of pupils.

**15.** At most of the schools examined, at the time when the sexual abuse occurred the school had a poor organisational culture in which safeguarding was not prioritised or seen as a core responsibility of all staff. Issues included:

- deficient or inadequately implemented policies and procedures;
- unclear or non-existent staff codes of conduct;
- inadequate staff training in safeguarding (see Part G);
- a lack of awareness by leaders of the risks in their schools and a lack of awareness of the signs of abuse in children or of inappropriate behaviours between staff and students;
- insular and inward-looking schools, lacking both internal and external accountability;
- responses by schools to allegations against staff as a reputation management issue rather than a child protection concern;
- school leaders discrediting children who complained of sexual abuse by staff and undermining their credibility in discussions with police and children’s social care;
- some staff considering sexual activity with students to be acceptable and lacking awareness that such activity amounted to a criminal offence; and
- a culture that discouraged complaints by parents, children and staff members, and where the voice of the child was not heard.

**16.** Statutory guidance requires that in order to fulfil their safeguarding responsibilities, headteachers must understand the safeguarding framework and their role within it, prioritise safeguarding within the school and be aware of the risks within the school as well as outside

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<sup>691</sup> OFS012736\_008 para 27

<sup>692</sup> ISI001574\_050 para 222

<sup>693</sup> INQ006502\_024 para 81

<sup>694</sup> EWM000473\_015-016 para 22



it – this means acknowledging the position of power that staff members are in and the scope for that power and trust to be abused. Headteachers must also recognise the additional risk factors that may arise in particular settings, such as boarding or one-to-one tuition.

**17.** In this investigation, there were examples of headteachers who found it inconceivable that staff might abuse their position of authority to abuse children. Mr John Vallins, headteacher of Chetham’s School of Music (Chetham’s) between 1970 and 1992, assumed the instrumental teachers were “*admirable people with absolutely right relationships with their pupils*” and that extra tuition outside of school hours was a “*splendid aspiration*”.<sup>695</sup> There was a failure to recognise that such occasions were potential opportunities for abuse and therefore no safeguards were put in place to minimise such risks and to protect pupils. Mr Anthony Halford, headteacher of Headlands School from 1991 to 2004, said that “*there was a naive trust that the teachers were doing the right job, and perhaps not enough consideration given to the voice of young people*”.<sup>696</sup>

**18.** Some former headteachers, such as Mr Christopher Hood of Hillside First School<sup>697</sup> and Mr Halford of Headlands School,<sup>698</sup> stated that, despite the detailed statutory guidance in existence at the time, they were unaware of safeguarding procedures or did not understand their role in dealing with allegations against staff. This is not acceptable.<sup>699</sup> It is the responsibility of headteachers to ensure that they are up to date with guidance and good practice. It is also the role of governors to ensure that school leaders understand and carry out their safeguarding roles effectively. It is clear from statutory guidance that these responsibilities cannot be delegated.

**19.** The Inquiry also saw evidence of headteachers who regarded the primary function of safeguarding as protecting staff from false allegations and who did not accord value or credibility to pupils’ complaints of abuse. Mr Halford said that there were no policies for dealing with allegations of abuse by staff and that “*we were more concerned about false allegations against staff*”.<sup>700</sup> He viewed a teacher who was in fact grooming some teenage girls for sexual abuse as being “*victimised*” and when informed of an incident of the teacher kissing a pupil dismissed it as “*a figment of her imagination*” and “*harassment*” of the teacher.<sup>701</sup>

**20.** Mr Peter Crook, headteacher of The Purcell School for Young Musicians (the Purcell School) from 2007 to 2011, drafted a document on safer working practice in 2009 which he presented as being designed to protect staff from allegations which could be made by pupils “*of unsound mind*”.<sup>702</sup> In the document, Mr Crook described adolescents as sometimes unable to distinguish between fantasy and reality and informed staff that pupils therefore may “*present a danger, even to the most careful of teachers*”.<sup>703</sup> Although the document was described as a draft for discussion, it may have given rise to the inference that pupils were inherently unreliable and not worthy of belief, and that allegations against staff were likely to be false. Mr Crook subsequently told police investigating a staff member, RS-F80, for sexual

<sup>695</sup> John Vallins 1 October 2019 101/19-20, 142/22-23

<sup>696</sup> Anthony Halford 19 November 2020 34/21-24

<sup>697</sup> Christopher Hood 20 November 2020 114/18-115/16

<sup>698</sup> Anthony Halford 19 November 2020 32/19-22

<sup>699</sup> DFE002006

<sup>700</sup> Anthony Halford 19 November 2020 8/10-11

<sup>701</sup> Anthony Halford 19 November 2020 24/23-25, 22/19-23

<sup>702</sup> INQ004300\_002

<sup>703</sup> INQ004300\_001

offences against a pupil that he did not believe the girl and that her allegation was based on fantasy and exaggeration.<sup>704</sup> It was wrong for Mr Crook to seek to undermine the credibility of his pupil in this way.

**21.** On occasion, when allegations of child sexual abuse arose, headteachers moved to protect the reputation of the school rather than the welfare of victims and other children at the school. In 1994, Michael Brewer, the director of music at Chetham's, resigned after his inappropriate relationship with a sixth-form student was discovered by the headteacher, Mr Peter Hullah. The headteacher suggested that it would be publicly announced that Brewer had taken early retirement on the grounds of ill health, in order to preserve the reputation of the school and its director of music.<sup>705</sup> Brewer went on to work with young people in the National Youth Choir.<sup>706</sup> No external agencies were notified of the circumstances of Brewer's departure. Similarly, when Mr Mark Moore (headteacher of Clifton College) became aware in 2007 of the impending criminal trial of a former member of staff for the sexual abuse of a pupil at the school, he engaged a public relations firm to issue press releases and manage any risks of reputational damage to the school but did not undertake any review of safeguarding practices to ensure current pupils were adequately protected.<sup>707</sup>

**22.** The Charity Commission told the Inquiry that some independent schools see their reputation as being of paramount importance and that this has unduly influenced the handling of safeguarding matters by some charity trustees.<sup>708</sup>

**23.** As the leader of the school, the headteacher has to be a role model to staff and students, and must embody the values of the school. The headteacher must demonstrate a commitment to safeguarding and adhere to the same rules and boundaries as other staff. An independent review of safeguarding practice at the Purcell School in 2019 found that Mr Crook, headteacher from 2007 to 2011, "did not provide a good role model". The review concluded that, under the leadership of Mr Crook, the school "did not have a culture of safeguarding", "safeguarding was not well understood" and "the attitude of senior leaders was complacent".<sup>709</sup> Mr Paul Bambrough took over as headteacher of the Purcell School in 2018. He said that the high turnover of staff in the headteacher role over the previous 10 years meant the school had no clear identity or idea of its function. Mr Bambrough sought to develop the safeguarding culture and ethos of the school by ensuring that everyone in the school was aware that the "overriding priority is to ensure that all students in the school are safe, happy and healthy". He considered that consistency in messaging from the headteacher was of central importance in facilitating a safeguarding culture.<sup>710</sup>

**24.** When Dr Stephen Rogers became headteacher at Headlands School, Bridlington, in 2004, he observed a culture in which some staff did not observe appropriate boundaries with students and did not recognise sexual relationships between staff and students as unacceptable.<sup>711</sup> He said that trying to change this culture was "a bit like turning an oil tanker".<sup>712</sup> When a sixth-form pupil, RS-A303, disclosed in October 2005 that she had

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<sup>704</sup> OHY007966\_002 para 7

<sup>705</sup> CSM000296\_049-050

<sup>706</sup> See Part B paras 12-13

<sup>707</sup> Mark Moore 18 November 2020 16/23-17/4, 25/1-16

<sup>708</sup> CYC000410\_035-037 para 88

<sup>709</sup> PUR001260\_018 para 45; Paul Bambrough 4 October 2019 74/17, 86/5-9

<sup>710</sup> Paul Bambrough 4 October 2019 51/16-52/1

<sup>711</sup> Stephen Rogers 19 November 2020 40/4-12, 53/3-17

<sup>712</sup> Stephen Rogers 19 November 2020 86/11-12

been sexually abused by the head of art, Mr Ian Blott, several staff members were openly supportive of Blott and sought to denigrate and discredit his victim. In March 2006, Dr Rogers gave a teacher a formal warning for pretending to spit on RS-A303's A-level course work in front of other students.<sup>713</sup>

**25.** Openness and transparency are key to a protective environment. Schools with a strong safeguarding culture responded promptly and appropriately to allegations and concerns, including complaints about non-recent incidents. Wells Cathedral School said that in the aftermath of allegations or safeguarding concerns, it cooperated with external agencies and reflected on opportunities to learn from mistakes in order to improve safeguarding arrangements in the school.<sup>714</sup>

**26.** At the time of the police investigation into Jonathan Thomson-Glover, the headteacher of Clifton College, Mr Moore, was not open and transparent with police and the local authority. Concerns were raised about Mr Moore's openness and honesty when he failed to disclose that Thomson-Glover had taken groups of boys away to his holiday home every summer for many years.<sup>715</sup> Mr Moore also repeatedly denied during strategy meetings that there had been any complaints or concerns about Thomson-Glover prior to his arrest. This was not accurate and a subsequent investigation commissioned by the school concluded on the balance of probabilities that Mr Moore knowingly provided inaccurate and misleading information to the local authority designated officer (LADO).<sup>716</sup>

**27.** A victim of abuse at Clifton College, RS-A345, spoke about the differences in students' perceptions of the culture of the school when there was a change of headteacher in 2015. RS-A345 said that there was a "paradigm culture shift",<sup>717</sup> with a "campaign of 'Safeguarding is everyone's responsibility', where it was written up all over the walls everywhere, and there was far more talking about safeguarding".<sup>718</sup>

**28.** RS-A7, a victim of abuse at Stony Dean School, also described a completely changed culture in the school when a new headteacher was appointed. This led to him feeling able to disclose to the new headteacher that he had been abused by Anthony Bulley.<sup>719</sup>

**29.** Bristol City Council's LADO, Ms Nicola Laird, considered that it was important in all settings that challenge was acknowledged and encouraged by leaders and management.<sup>720</sup> Staff and parents must feel able to raise concerns or complaints about the behaviour of school staff, and have confidence that this will be taken seriously and responded to appropriately. Some former headteachers at Clifton College<sup>721</sup> and Hillside First School<sup>722</sup> were considered unapproachable with an autocratic leadership style which affected the ability of parents or staff members to complain or report concerns about staff behaviour.

**30.** In order to enable meaningful oversight, leaders must ensure that governors have access to information about safeguarding in the school. This means the headteacher and DSL providing governors or proprietors with written policies and procedures, current guidance

<sup>713</sup> Stephen Rogers 19 November 2020 54/18-55/7

<sup>714</sup> Alistair Tighe 2 October 2019 177/18-24, 196/16-198/5, 200/1-13

<sup>715</sup> BSC000256\_005; Mark Moore 18 November 2020 41/20-42/16

<sup>716</sup> ISI001658\_027

<sup>717</sup> RS-A345 17 November 2020 31/12-13

<sup>718</sup> RS-A345 17 November 2020 31/24-32/2

<sup>719</sup> RS-A7 9 October 2019 66/1-67/14

<sup>720</sup> Nicola Laird 18 November 2020 122/21-24

<sup>721</sup> CFC000016\_025 paras 110-111; CFC000016\_033-034

<sup>722</sup> OFS011782\_045; EWM000473\_082 para 250

and advice on good practice, as well as suitably anonymised information about safeguarding cases in the school, in order that governors can monitor adherence to procedures and their effectiveness.

## F.4: Governance

**31.** KCSIE 2021 stipulates that governors and proprietors should:

- ensure that they take strategic responsibility for safeguarding and that the school has a “*whole school*” approach to safeguarding;<sup>723</sup>
- have a senior board level (or equivalent) lead to take leadership responsibility for the school’s safeguarding arrangements;<sup>724</sup>
- ensure that safeguarding policies, procedures and training in their schools are effective and comply with the law at all times;<sup>725</sup>
- adopt robust recruitment procedures that deter and prevent people who are unsuitable to work with children from applying for or securing employment, or volunteering opportunities in schools and colleges;<sup>726</sup> and
- recognise that children with special educational needs and disabilities can face additional safeguarding challenges and ensure that child protection policies reflect the additional barriers which may exist when dealing with safeguarding concerns.<sup>727</sup>

**32.** Governors should have relevant knowledge and skills to enable them to identify safeguarding risks and how to manage them. Governors must understand their responsibility to put the child first, before the institution.

**33.** Prior to the introduction of a specific standard on leadership and management in the 2014 ISS, the ISI inspected this area on a non-statutory basis.<sup>728</sup> From 2013 onwards, when schools have demonstrated inadequate safeguarding arrangements, school inspectors have held governors or proprietors responsible for failing to exercise effective oversight of safeguarding at the school.<sup>729</sup>

**34.** Governors or proprietors set the strategic vision for a school. Where safeguarding is part of the stated aims and objectives of the school, this helps to create a positive culture in which the welfare of children is prioritised throughout the school, from the governors and leaders to the staff and volunteers. Ms Laird considered that the hallmarks of a good safeguarding culture are where safeguarding is integral to every part of the setting, which follows safer recruitment, and has good training; where everyone from cleaners to governors has good safeguarding awareness and understands the policies, and how to report allegations; and governors have safeguarding knowledge and can hold the head to account. She also considered that safeguarding must be regularly reviewed because it is constantly evolving.<sup>730</sup>

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<sup>723</sup> INQ006502\_024 paras 78 and 82

<sup>724</sup> INQ006502\_024 para 80

<sup>725</sup> INQ006502\_024 para 78

<sup>726</sup> INQ006502\_047 para 189

<sup>727</sup> INQ006502\_046 para 185

<sup>728</sup> IS1001574\_022 para 104

<sup>729</sup> IS1000729

<sup>730</sup> Nicola Laird 18 November 2020 125/14-126/5

**35.** Governance should provide an additional layer of assurance by scrutinising safeguarding arrangements in a school and holding school leaders accountable for their effectiveness. Governors or proprietors must have some safeguarding knowledge, and must also be provided with sufficient information about safeguarding issues which arise, so that they can monitor whether policies are being implemented and whether those policies are effective.

**36.** The ISI considered that the relationship between leadership and governors was a “cornerstone” because “*It sets the tone for effective leadership, mutual respect and recognition of shared values, while recognising their different roles and lines of accountability*”.<sup>731</sup>

**37.** Evidence from the schools examined showed that far from encouraging challenge from governors, some headteachers were resistant to scrutiny, while some governing bodies lacked the ability to challenge school leaders. In some cases, such as at Clifton College and at the Purcell School, governors simply ‘rubber-stamped’ the decisions of the headteacher or failed to address shortcomings in the safeguarding practice of the school, even when these issues had been identified by external safeguarding professionals.<sup>732</sup>

**38.** At Clifton College, the LADO and the governing body had a number of concerns regarding headteacher Mark Moore’s handling of safeguarding issues relating to the housemaster Jonathan Thomson-Glover, but Clifton College did not conduct any disciplinary proceedings in relation to Mr Moore’s leadership of safeguarding. The College Council, as Mr Moore’s employer, had a duty to consider whether to refer him to the National Council for Teaching and Leadership (NCTL) when he resigned as headteacher at the end of 2015 but the referral did not take place until August 2017, following the receipt of advice sought from several external advisors.<sup>733</sup>

**39.** Ofsted suggested that the ISS should contain specific requirements for governance, based on three accessible principles: “*openness to external scrutiny; honesty and transparency within the governance arrangements; and the ability of those governing to have difficult conversations both internally and with those providing external scrutiny*”.<sup>734</sup> This would allow the Department for Education to intervene when governance arrangements did not comply with those principles.

### Schools without a governance structure

**40.** The closed residential schools account submitted by Counsel to the Inquiry set out the events leading to the disqualification of the sole proprietor and headteacher of an independent school, Sherborne Preparatory School. Robin Lindsay was disqualified in 1998 from being a school proprietor or a teacher on the grounds that he was “*not a fit person to own or run a school*”. There was no governing body or any form of oversight board to hold the headteacher to account. Concerns about the conduct of Lindsay were raised in 1974, 1982, 1985, 1993, 1994, 1995, 1996 and 1997 before the Independent School Tribunal in 1998 found that he was a “*fixated paedophile*” who posed a “*serious risk to children*” and made an order of disqualification.<sup>735</sup> The tribunal hearing predated the introduction of the ISS.

<sup>731</sup> ISI002176\_032-033 para 137

<sup>732</sup> HDC000046\_008 para 4.12; Graham Smallbone 3 October 2019 174/22-175/17

<sup>733</sup> TRA000004\_019 para 67; CFC000486\_035-038 paras 132–141; ISI001658\_027

<sup>734</sup> OFS012736\_004 para 14

<sup>735</sup> *Non-Recent Sexual Abuse in Residential Schools: An account submitted by Counsel to the Inquiry concerning eight closed residential schools*, p16, para 48

41. The Department for Education said that when child protection concerns arose in sole proprietor schools, especially when the concern related to the proprietor, this could be difficult for agencies to deal with.<sup>736</sup> The proprietor has no employer and to remove the person from their role the Department for Education is reliant upon taking a combination of regulatory and enforcement action, which is time-consuming.<sup>737</sup> These, however, are problems that the Department for Education could itself address, were it minded to do so.

### Governors or proprietors: oversight role in safeguarding

42. The Inquiry heard that at many of the schools examined governors did not monitor the effective implementation of safeguarding arrangements through the scrutiny of safeguarding incidents which arose at the school. This was the case at Chetham's prior to 2013 and at the Purcell School during the tenure of Mr Graham Smallbone as chair of governors from 1998 to 2010.<sup>738</sup>

43. The local authority's inspection report on Chetham's in 2013 found there was little evidence that the governing body had held the school to account to ensure that safeguarding arrangements were "implemented, applied robustly, monitored appropriately, or evaluated effectively".<sup>739</sup> The ISI also inspected Chetham's in 2013 and found that there was inadequate oversight of the safeguarding arrangements at the school.<sup>740</sup> The governing body had no means of monitoring the implementation or effectiveness of safeguarding policies and procedures, for example by sampling cases which occurred at the school. In response to the ISI's findings, the school endeavoured to improve transparency and accountability by creating new formal structures for the oversight of safeguarding. A dedicated safeguarding committee was established within the school's governing body.<sup>741</sup> It received anonymised reports of all safeguarding incidents which arose at the school, to ensure the school's policies and procedures were complied with in practice and to enable assessment of the effectiveness of the school's safeguarding processes.<sup>742</sup>

44. The ISI inspection of Clifton College in 2015 found that the governing body had not monitored the leadership, management and effectiveness of the welfare provision of the school. Clifton College had not taken appropriate action to safeguard pupil welfare because the governors had relied on school staff but had not monitored their implementation of safeguarding procedures.<sup>743</sup> An independent review of safeguarding at Clifton College noted that, prior to 2013, the governing body (called the College Council) did not appear to be aware of its duty to oversee safeguarding at the school. There was no evidence of any:

*"substantive, minuted discussion of the Council's duties to safeguard and promote the welfare of children, their duties as charity trustees to safeguard 'vulnerable beneficiaries', or the safeguarding expectations of school inspectors."*<sup>744</sup>

Although the College Council agreed the child protection policy every year, "there was no evidence of challenge or questioning" by the Council.<sup>745</sup>

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<sup>736</sup> DFE002073\_160-161 para 704

<sup>737</sup> Section 120 of the Education and Skills Act 2008

<sup>738</sup> Graham Smallbone 3 October 2019 148/3-5

<sup>739</sup> CSM000326\_009 para 6.1

<sup>740</sup> IS1000729\_004

<sup>741</sup> Claire Moreland 2 October 2019 45/15-46/22

<sup>742</sup> Claire Moreland 2 October 2019 47/2-49/21

<sup>743</sup> IS1001663

<sup>744</sup> CFC000016\_036

<sup>745</sup> CFC000016\_036



**45.** Mr Anthony Marsh, the LADO for East Riding of Yorkshire Council, said that at the time of the major enquiry into sexual abuse at Headlands School, published in 2008, governors of maintained schools were “*very much hands-off and a bit distant*”, and the role of designated safeguarding governor was then “*much more distant than we would expect it to be now*”.<sup>746</sup> The designated safeguarding governor at Headlands School was not informed about specific safeguarding cases or allegations against staff, so was not able to scrutinise whether school policies and procedures were being properly implemented.<sup>747</sup> Mr Marsh stated that this was not unusual for governing bodies at the time because “*there’s obviously difficulties in terms of governors in how involved they can get in the details of child protection issues and allegations because of their disciplinary role*”.<sup>748</sup>

### **Governors or proprietors: information about safeguarding concerns**

**46.** At Hillside First School, governors were aware that they had a role in scrutinising safeguarding at the school but were not made aware of safeguarding concerns regarding Nigel Leat. Mr Paul Redding, the former chair of governors, understood that safeguarding concerns were noted in a book which was kept in the headteacher’s office and checked regularly by the safeguarding governor. Mr Redding considered that there were safeguarding records about Leat’s conduct in 2004 and 2008 which should have been brought to the attention of the governing body, which would have wished to refer the matters to the local authority.<sup>749</sup>

### **Governors or proprietors: relevant knowledge and experience**

**47.** In some schools, it appeared that inadequate scrutiny was the result of governors lacking the necessary safeguarding training, experience or knowledge, meaning that policies and procedures were simply rubber-stamped rather than being rigorously reviewed. At Clifton College, members of the College Council (the governing body) were often former pupils of the school and the governing body lacked professional experience in education or safeguarding children. The LADO in 2015 drew attention to the lack of safeguarding expertise within the newly created Safeguarding and Welfare Committee of the governing body and questioned its ability to provide meaningful challenge on safeguarding issues. The chair of the College Council said that the lack of existing expertise meant that the Safeguarding and Welfare Committee relied heavily on the help and support of the LADO and the school’s DSL to train governors to ensure they gained the appropriate level of knowledge and understanding of safeguarding. The governing body also co-opted external expertise from a police officer with child protection experience to advise the Safeguarding and Welfare Committee.<sup>750</sup>

**48.** A governing body with a diverse range of backgrounds and experience is likely to strengthen the governance of any school. There is a particular concern in independent schools where there are no regulations as to the composition of any governing body. In maintained schools, regulations as to the constitution of the governing body require a board of at least seven members, including the headteacher, one staff member, at least two parents and a member nominated by the local authority.<sup>751</sup>

<sup>746</sup> Anthony Marsh 19 November 2020 113/17-19, 115/16-17

<sup>747</sup> Anthony Halford 19 November 2020 13/23-14/17

<sup>748</sup> Anthony Marsh 19 November 2020 112/5-9

<sup>749</sup> INQ005623\_006 para 12

<sup>750</sup> Nick Tolchard 17 November 2020 56/16-19

<sup>751</sup> Section 13 of The School Governance (Constitution) (England) Regulations 2012



49. Mr Bambrough, headteacher of the Purcell School, considered that the board of governors of the school would be enhanced if it included a staff member and a parent.<sup>752</sup>

50. The governors of Stony Dean School, a maintained special school, appeared to lack understanding of their duty to safeguard children. In 1998, the chair of governors together with two representatives of Buckinghamshire County Council visited the head of care, Malcolm Stride, when he was remanded in custody awaiting trial for sexual offences against children at a different school.<sup>753</sup> They sought to persuade Stride to resign with a compromise agreement, which would have prevented a disciplinary process from investigating whether Stride had harmed children at Stony Dean School, and prevented a referral to the relevant bodies to consider whether Stride should be prohibited from working with children.<sup>754</sup> Mr Richard Nash, service director for children's social care at Buckinghamshire County Council, stated that it was "*wholly inappropriate*" for the governors and representatives of the local authority to make such a proposal, and that the governors did "*not appear to have considered the potential implications of such a compromise agreement in relation to the future protection of children*".<sup>755</sup>

### **Governors or proprietors: unwillingness to challenge leaders**

51. Governors at Stony Dean School failed to hold the headteacher, Mr Graham Newsholme, to account for the safeguarding arrangements at the school. The governing body did not identify a number of failures in the recruitment process for the head of care, Anthony Bulley, who went on to abuse children at the school. A serious case review found that governors were unwilling or unable to challenge the headteacher for his poor practice over several years.<sup>756</sup>

52. Mr Nash stated that current local authority mechanisms ensure the effectiveness of governing bodies in holding maintained school leaders to account for poor safeguarding practice. He explained that Buckinghamshire County Council now had much closer relationships with the governing bodies of maintained schools and that these relationships were more interactive, with audits to ensure that governors undertake safeguarding training and implement what they have learnt. The local authority had also created a safeguarding advisory service for school governors, which gave advice and could support maintained school governors to improve safeguarding where shortcomings had been identified.<sup>757</sup> Local authorities do not have the same role in relation to independent schools and academies.

53. The Inquiry heard detailed evidence about governance issues at the Purcell School, where the chair of governors did not deal appropriately with concerns reported by staff about the headteacher, failed to hold the headteacher to account for his inappropriate behaviour, failed to refer matters of concern to the LADO and did not engage transparently with external bodies.

54. In the 2009/10 school year, the chair of governors, Mr Smallbone, was made aware of a number of complaints and concerns regarding the conduct of the headteacher, Mr Crook, in relation to inappropriate conversations with pupils. Mr Smallbone discussed the complaints

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<sup>752</sup> Paul Bambrough 4 October 2019 102/22-103/1

<sup>753</sup> BUC000048\_003 para 18; Richard Nash 9 October 2019 144/3-9

<sup>754</sup> Richard Nash 9 October 2019 144/24-146/11

<sup>755</sup> Richard Nash 9 October 2019 144/12-18

<sup>756</sup> INQ000570\_130 para 9.81; INQ000570\_160 para 12.23; INQ000570\_132 para 9.87; Richard Nash 9 October 2019 129/12-130/18

<sup>757</sup> Richard Nash 9 October 2019 130/24-133/13

with Mr Crook but did not refer any complaints to the LADO. Several direct referrals were made by whistleblowers on the school staff and in July 2009 the local authority found one allegation against the headteacher to be substantiated. It was referred back to the school so that the board of governors could take disciplinary action against Mr Crook but in September 2009 Mr Smallbone asked the LADO to reconsider the outcome of the case.<sup>758</sup> It was inappropriate of him to question the outcome or ask the LADO to reconsider it. Mr Crook said that he was never informed by the chair of governors or anyone else that an allegation against him had been substantiated.<sup>759</sup>

**55.** Mr Smallbone also heard a recording of Mr Crook speaking to Year 9 boys using language which Mr Smallbone described to the Inquiry as “*absolutely unacceptable*”,<sup>760</sup> although he had previously told the governing body it was “*very good with only very minor exceptions*”.<sup>761</sup> An independent review commissioned by the governing body in 2009 considered that Mr Crook had used inappropriate language with pupils and recommended that Mr Crook be given a formal final warning and placed on probation. The local authority had also recommended that disciplinary action be taken.<sup>762</sup> Mr Smallbone declined to follow these recommendations to take disciplinary measures against Mr Crook but assured the local authority that disciplinary action had been taken.<sup>763</sup> An independent review commissioned by the current headteacher of the Purcell School concluded in 2019 that the failure to discipline Mr Crook was a misjudgement on the part of the chair of governors and that he failed to properly hold the headteacher to account for inappropriate conduct.<sup>764</sup>

**56.** Staff at the Purcell School at the time perceived that governors lacked accountability for their failure to hold the headteacher to account. Ms Margaret Moore, a whistleblower at the school during the headship of Mr Crook, told the Inquiry: “*the governors ultimately, in that independent school, were in control, and they could do and say what they wanted to*”.<sup>765</sup>

**57.** Ms Laird said that she was concerned in 2015 that the governing body was not scrutinising and challenging the decisions of the headteacher of Clifton College, Mr Moore.<sup>766</sup> The current chair of the governing body, Mr Nick Tolchard, told the Inquiry that a weakness in governance at that time was that there was no formal appraisal of the headteacher by the College Council.<sup>767</sup> Governors may find it difficult to challenge leaders if there are no formal mechanisms for doing so, particularly where the headteacher is autocratic and resistant to authority. The former chair of governors, Mr Timothy Ross, noted that Mr Moore “*found it difficult to accept or understand that ultimate control of (and responsibility for) the College lay with the Council, not the Headmaster*”.<sup>768</sup>

**58.** Clifton College was not unusual among independent schools in having many former pupils on the board of governors. The ISI said that where members of the proprietor body had attended the school themselves, “*this can inculcate a high level of loyalty to the institution which can impair their ability to hold the leadership to account objectively*”.<sup>769</sup>

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<sup>758</sup> PUR000498; HDC000014; HDC000046\_007 paras 4.6–4.7

<sup>759</sup> Peter Crook 3 October 2019 130/8-131/4

<sup>760</sup> Graham Smallbone 3 October 2019 179/18

<sup>761</sup> Graham Smallbone 3 October 2019 177/11-19, 179/11-24

<sup>762</sup> HDC000046\_008 para 4.12; Graham Smallbone 3 October 2019 174/22-25, 181/15

<sup>763</sup> HDC000046\_008 para 4.12

<sup>764</sup> PUR001260\_018-019 para 45

<sup>765</sup> Margaret Moore 4 October 2019 34/9-11

<sup>766</sup> Nicola Laird 18 November 2020 106/4-6

<sup>767</sup> Nick Tolchard 17 November 2020 103/9-17

<sup>768</sup> INQ006092\_002 para 6

<sup>769</sup> ISI001574\_053 para 238

**59.** Independent school governors are not accountable to the local authority or to the Department for Education in how they exercise their oversight role. Such schools may choose to create an additional oversight mechanism to monitor the effectiveness of the governing body. After Chetham's failed to meet safeguarding standards in 2013, in addition to creating a sub-committee of the governing body to monitor safeguarding at the school, an Independent Safeguarding Commission was established by the school, composed of individuals who were independent of the school and its governing body. The Independent Safeguarding Commission's role was to have independent oversight of the safeguarding arrangements at the schools and to scrutinise the safeguarding committee of the governing body. It could request reports from the safeguarding committee and could also invite staff with safeguarding roles to present reports and answer questions regarding safeguarding at the school.<sup>770</sup>

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<sup>770</sup> Claire Moreland 2 October 2019 47/2-50/2

Part G

# Training and awareness-raising in England

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# Training and awareness-raising in England

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## G.1: Introduction

1. Safeguarding training is essential in ensuring that staff are able to identify signs of abuse, recognise inappropriate behaviour and know how to report concerns. Leaders and managers must have sufficient knowledge and understanding of their roles in the safeguarding arrangements of the school and in local multi-agency safeguarding partnerships. This Part of the report considers the role of training in ensuring that safeguarding responsibilities are properly understood and carried out by school staff, leaders and management, and also examines the adequacy of current training requirements for school staff, governors and proprietors.

2. Schools have a responsibility to ensure that children receive age-appropriate information and guidance to develop their understanding of safeguarding issues, such as awareness of inappropriate behaviour and how to report concerns. Evidence from schools, professionals engaged in safeguarding and relevant statutory bodies emphasised the need for pupils to have good-quality personal, social and health education (PSHE) and relationships and sex education (RSE) to raise their awareness and to help them stay safe. This Part looks at current requirements for schools in England to teach these subjects (now called 'relationships, sex and health education' or RSHE) and the effectiveness of this provision in safeguarding children, particularly those with special educational needs and disabilities.

## G.2: Safeguarding training for staff in schools

### Initial teacher training

3. Teachers in maintained schools or in non-maintained special schools in England must have a teaching qualification which confers 'qualified teacher status' (QTS). Initial teacher training may be provided via an undergraduate or postgraduate qualification course. Teachers in academy schools and in the independent sector do not have to have QTS.<sup>771</sup> This means that teachers in these schools may not have undergone any teacher training and may not have undertaken any safeguarding training until they have staff induction training at school.

4. There are no national standards or minimum content for the safeguarding component of the initial teacher training curriculum, which leads to considerable differences of approach.

5. Mr Paul Whiteman, general secretary of the National Association of Head Teachers (NAHT), said that all areas of initial teacher training are under pressure and all require greater depth of time, including safeguarding.<sup>772</sup> Ms Amanda Brown, deputy general secretary of the National Education Union (NEU), identified a need for "*national oversight of the standards*

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<sup>771</sup> DFE002072\_002 paras 4–8

<sup>772</sup> NEU000002\_004-005 para 14; Paul Whiteman 23 November 2020 114/1-6

*expected and the level of training that should be within the initial teacher training programme*".<sup>773</sup> The NEU considered that initial teacher training had an insufficient focus upon safeguarding and that there was wide variation across providers, with some devoting as little as one hour to safeguarding.<sup>774</sup> Representatives of the NAHT and the National Association of Schoolmasters Union of Women Teachers (NASUWT) were in agreement that oversight of initial teacher training was needed. Mr Whiteman said that "*national consistency and quality to training around these areas would be of great benefit*".<sup>775</sup>

6. The Office for Standards in Education, Children's Services and Skills (Ofsted) told the Inquiry that it will inspect initial teacher training under a new inspection framework which had not yet been brought into effect due to the COVID-19 pandemic.<sup>776</sup> Ms Amanda Spielman, Her Majesty's Chief Inspector for Education, Children's Services and Skills, stated that this new framework will give a "*better handle on what it is trainees are being taught about safeguarding and will help to iron out unevennesses that we know exist between providers at the moment*".<sup>777</sup>

7. Nick Gibb MP, then Minister for School Standards, said that the Department for Education was doing "*quite a lot of new work*" on initial teacher training, including introducing a core framework to ensure that trainees are fully aware of their duties in respect of safeguarding and drafting a new set of national professional qualifications with a strengthening of safeguarding content.<sup>778</sup>

## Training requirements for school staff

8. The statutory guidance for schools in England, *Keeping Children Safe in Education* (KCSIE), provides that all new staff should have the "*systems within their school or college which support safeguarding*" explained to them during their induction, including the school's safeguarding policies and the role of the designated safeguarding lead (DSL).<sup>779</sup> All staff must read the general guidance contained in part one of KCSIE.

9. There is a requirement under KCSIE that "*All staff should receive appropriate safeguarding and child protection training*" which is "*regularly updated*". This includes any staff who work on a part-time or self-employed basis providing specialist music, sporting, drama or other enrichment activities, or who may provide pastoral care and support. All staff should receive safeguarding and child protection updates "*at least annually*", and should receive training in order to understand the early help process, how to refer matters to children's social care and what to do if a child tells them they are being abused or neglected.<sup>780</sup> Other than requiring staff to have read the relevant parts of KCSIE, the statutory guidance does not set out a minimum level of training or specify any requirements as to the content of safeguarding training that teachers and other school staff should undertake. The headteacher of Southlands School spoke about the importance of ensuring that staff have fully understood KCSIE and how that school had devised a "*challenging*" questionnaire to test staff knowledge and understanding of the guidance.<sup>781</sup>

<sup>773</sup> Amanda Brown 23 November 2020 114/9-17

<sup>774</sup> NEU000001\_002 para 7

<sup>775</sup> Paul Whiteman 23 November 2020 118/1-5

<sup>776</sup> Amanda Spielman 24 November 2020 11/7-21

<sup>777</sup> Amanda Spielman 24 November 2020 11/18-21

<sup>778</sup> Nick Gibb 25 November 2020 62/15-23

<sup>779</sup> INQ006502\_008 para 13

<sup>780</sup> INQ006502\_009 paras 14-17

<sup>781</sup> Karen Gaster 9 October 2019 29/7-24

**10.** The government considers that the requirement in KCSIE for training to be “*appropriate*”, without further detail or prescription, is designed to give schools “*flexibility*” because of the different needs of staff depending upon their role and the nature of the school.<sup>782</sup>

**11.** Local authorities provide some safeguarding training for staff and governors of maintained schools. Independent schools and academies may also purchase this training or may use alternative providers. At Headlands School in 2001 and 2002, the headteacher Mr Anthony Halford did not take up safeguarding training for headteachers, which was offered by the local authority but was not mandatory. Local authorities now undertake annual audits to monitor whether all schools, including academies and independent schools, are complying with the requirement to ensure staff receive appropriate safeguarding training either delivered by the local authority or by other providers.<sup>783</sup> These audits do not evaluate the content and quality of training delivered.<sup>784</sup>

**12.** Effective training goes beyond the minimum of ensuring staff have read and understood the relevant parts of KCSIE and the school policies and procedures. Staff should have a clear understanding of the safeguarding risks which could arise in their school and how to be alert to signs of abuse. Mrs Helen Bennett, the former DSL of Wells Cathedral School, explained that she adapted and supplemented the training materials provided by the local authority to address particular aspects of a residential music school and used real-life examples to emphasise the importance of safeguarding: “*I just didn’t really hold back on the dangers that were out there*”.<sup>785</sup> Mrs Bennett said that face-to-face training took place on a frequent basis, with training sessions tailored to different staff roles, including ancillary staff such as boarding house cleaners,<sup>786</sup> “*to keep child protection and safeguarding a bit of a buzz in the school, because I wanted people to be part of a team. I wanted everybody to be involved*”.<sup>787</sup>

**13.** At some of the schools examined, however, safeguarding training was not so extensive or effective. Ms Nicola Laird, the local authority designated officer (LADO) for Bristol City Council, considered that at Clifton College around 2014–2015 the headteacher, the DSL and the designated safeguarding governor all lacked appropriate knowledge and expertise.<sup>788</sup> Mr Peter Crook, former headteacher of The Purcell School for Young Musicians, said that he did not receive any training from the DSL, and considered that he kept up to date with safeguarding by reading bulletins from the professional associations of which he was a member.<sup>789</sup> Evidence showed that he lacked the safeguarding knowledge and awareness that would be expected of a headteacher. Mr Christopher Hood, former headteacher at Hillside First School, said that he had little understanding of how to deal with allegations against staff, claiming that he discussed the concerns with the member of staff because that was what other headteachers he worked with had done in such cases.<sup>790</sup>

**14.** The teaching unions considered that the emphasis upon flexibility for schools, without a specified minimum level of training, had led to inconsistency in training and uncertainty as to expectations and requirements. Dr Patrick Roach, general secretary of the NASUWT, identified the need to ensure that there is an adequate entitlement to continuing

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<sup>782</sup> Elizabeth Berridge 25 November 2020 69/12-17

<sup>783</sup> Children Act 2004, section 11; DFE003363

<sup>784</sup> Sheila Smith 23 November 2020 57/1-8

<sup>785</sup> Helen Bennett 2 October 2019 174/18-19

<sup>786</sup> Helen Bennett 2 October 2019 167/18-169/18

<sup>787</sup> Helen Bennett 2 October 2019 174/19-22

<sup>788</sup> Nicola Laird 18 November 2020 105/12-25

<sup>789</sup> Peter Crook 3 October 2019 95/5-13

<sup>790</sup> Christopher Hood 20 November 2020 125/8-23



professional development, because “*safeguarding and child protection is critically important*”. Dr Roach said that safeguarding should be “*a national priority within an education service, and with that, it should follow that the government should also be clear about what it expects to see in relation to workforce development*”.<sup>791</sup> Ms Chris Keates, former general secretary of the NASUWT, considered that the current approach set out in KCSIE, “*which involves little more than exhorting schools to provide training, is completely inadequate*”.<sup>792</sup> Ms Keates identified that more detailed guidance on training which was set out in the statutory safeguarding guidance prior to the introduction of KCSIE has been “*stripped away*”.<sup>793</sup> Mr Whiteman emphasised the need for national “*consistency and quality*” in safeguarding training for school staff.<sup>794</sup> Ms Brown told the Inquiry that for “*many years*” the union has highlighted concerns about the absence of a specific child protection training requirement for teachers and other school staff. There is no quality assurance of the training which is delivered, and the NEU raised concerns that some training providers may not be familiar with local procedures and processes.<sup>795</sup>

**15.** Evidence from the NASUWT’s surveys indicated that teachers believe that the extent and quality of their safeguarding training is inadequate. The NASUWT considered that the lack of a contractual right to continuing professional development means that the ability of teaching staff to insist on such training is limited.<sup>796</sup>

**16.** There is not a set of national standards or any guidance on the content of safeguarding training for school staff. Schools can choose who they wish to provide the training. Many of those who gave evidence made reference to ‘level 1’ or ‘level 3’ safeguarding courses. A ‘level 3’ qualification is equivalent to an A-level, a level 3 diploma or a level 3 NVQ.<sup>797</sup> The level of a safeguarding course may be ascribed by the training provider but there is no accreditation, certification or national standards for safeguarding courses set by the Department for Education or any other body.

**17.** Mr Dale Wilkins, director of safeguarding standards and training at the Boarding Schools’ Association, noted that cuts in funding over the past decade have meant that local authorities have reduced the provision of training for schools in their areas, including independent schools. Schools are increasingly having to source safeguarding training and materials from other providers, with considerable variation in content and quality.<sup>798</sup>

**18.** In June 2021, Ofsted’s *Review of sexual abuse in schools and colleges*<sup>799</sup> presented evidence from a number of local safeguarding partnerships (LSPs) which reported that independent schools may commission external safeguarding training rather than accessing partnership training. This made it difficult for LSPs to know and understand the training being delivered in these schools. Both LSPs and some school DSLs said that centralised training for DSLs from LSPs was useful.<sup>800</sup>

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<sup>791</sup> Patrick Roach 23 November 2020 122/11-23

<sup>792</sup> INQ004428\_004 para 14

<sup>793</sup> INQ004429; INQ0004428\_002 para 7(i)

<sup>794</sup> Paul Whiteman 23 November 2020 118/1-5

<sup>795</sup> NEU000002\_004-005 para 14

<sup>796</sup> INQ004428\_004 para 15

<sup>797</sup> INQ006525

<sup>798</sup> Dale Wilkins 4 October 2019 131/14-132/12

<sup>799</sup> INQ006509

<sup>800</sup> INQ006509

## Training for the designated safeguarding lead

**19.** KCSIE specifies that the DSL and any deputies should undergo training to provide them with the knowledge and skills to carry out this role, with the training updated every two years. Alongside this, KSCIE sets out that the DSL should regularly update their knowledge and skills, at least annually, to keep up with developments relevant to their role.<sup>801</sup> Annex C of KCSIE includes a section on training which specifies that the DSL must undertake training every two years, and must receive at least annual updates. The guidance sets out specific areas of knowledge and understanding which training should provide.<sup>802</sup>

**20.** Despite this level of responsibility and the requirement for specific knowledge and skills, there is no DSL qualification. This contrasts with the requirement for all state-funded schools to have a special educational needs coordinator with a specific postgraduate qualification for the role.<sup>803</sup>

**21.** The National Society for the Prevention of Cruelty to Children (NSPCC) stressed the importance of training for all staff in schools. It told the Inquiry that, in the absence of guidance as to the content and quality of the training for DSLs, there is a risk that those appointed to the role lack the necessary knowledge, skills and understanding to carry out their responsibilities effectively.<sup>804</sup>

**22.** The Department for Education considered that there is not a need for a specific DSL qualification because of the wide range of settings and situations in which DSLs operate.<sup>805</sup>

## Training for staff in boarding schools

**23.** There is no compulsory training specifically for boarding school staff in England or in Wales. Diploma and certificate courses in boarding education are provided by the Boarding Schools' Association, a voluntary membership organisation which represents the majority of boarding schools in the UK. However, member schools are not required to ensure staff undertake Boarding Schools' Association courses.<sup>806</sup>

**24.** Research commissioned by the Boarding Schools' Association into safeguarding children in boarding schools from sexual abuse, which included surveys of staff, pupils and parents, found a strong link between the effectiveness of staff training (in the view of staff) and the tendency to report concerns.<sup>807</sup> The report concluded that, due to the increased potential risks for child sexual abuse to occur in boarding settings, specific safeguarding courses tailored to staff roles in boarding schools were required. This included a recommendation for nationally recognised level 3 qualifications for leaders and for DSLs in boarding schools.<sup>808</sup>

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<sup>801</sup> INQ006502\_027 para 95

<sup>802</sup> INQ006502\_143-149 Annex C

<sup>803</sup> Section 317(3A) of the Education Act 1996; Regulation 3 of the Education (Special Educational Needs Co-ordinators) (England) Regulations 2008

<sup>804</sup> Almudena Lara 11 October 2019 78/2-25

<sup>805</sup> Elizabeth Berridge 25 November 2020 114/11-18

<sup>806</sup> Dale Wilkins 4 October 2019 130/17-21

<sup>807</sup> EWM000465\_065

<sup>808</sup> EWM000465\_063-064

## Special educational needs and disabilities

25. The majority of children with special educational needs and disabilities (SEND) are educated within mainstream schools, where they receive specific SEND support. The most common primary need for children with an education and health care plan in 2019/20 was autistic spectrum disorder.<sup>809</sup>

26. KCSIE recognises that those with special educational needs can face additional safeguarding challenges and that additional barriers can exist in recognising abuse and neglect in this group of children.<sup>810</sup> However, the guidance does not require any specific or additional safeguarding training for staff working with children with SEND in mainstream or special schools.

27. The National Autistic Society maintains that the requirement in KCSIE for schools to “consider” additional pastoral support for children with SEND is not sufficient and that a specific requirement for autism-trained pastoral support in every school should be included in KCSIE.<sup>811</sup>

28. Those who worked in residential special schools described staff training as “key”<sup>812</sup> and also emphasised the importance of having governors trained in the particular issues raised by residential special schools and their cohort of children.<sup>813</sup>

29. Dame Christine Lenehan, director of the Council for Disabled Children, described the workforce in special schools as “undertrained”. She identified that, since 2008, specialist guidance has been put in place about safeguarding children and there have been several recommendations for the need for specialist training to safeguard disabled children.<sup>814</sup> Nevertheless, Dame Christine Lenehan said there are “bits and pieces” of safeguarding training specifically for staff working with disabled children but “what you have not seen is a consistent approach to what is different about safeguarding disabled children”.<sup>815</sup>

## Harmful sexual behaviour between children

30. Ofsted’s *Review of sexual abuse in schools and colleges*<sup>816</sup> in June 2021 revealed the prevalence of sexual harassment and online sexual abuse among children in schools, with girls disproportionately impacted. It identified that, while leaders had good insight into the scale of the issue, many school staff lacked awareness of the context, prevalence and impact of harmful sexual behaviour. Ofsted found that staff training on harmful sexual behaviour between children was “piecemeal” and often constituted just a small part of a general safeguarding training session.<sup>817</sup> Ofsted recommended training to ensure that staff and governors are able to:

- better understand the definitions of sexual harassment and sexual violence, including online sexual abuse;
- identify early signs of peer-on-peer sexual abuse; and

<sup>809</sup> INQ006530

<sup>810</sup> INQ006502\_046 para 185

<sup>811</sup> NAS000017\_013-014 paras 70–71

<sup>812</sup> Karen Gaster 9 October 2019 24/23-24

<sup>813</sup> Karen Gaster 9 October 2019 17/21-24

<sup>814</sup> Christine Lenehan 7 October 2019 50/21; DFE002022\_019

<sup>815</sup> Christine Lenehan 7 October 2019 36/16-18

<sup>816</sup> INQ006509

<sup>817</sup> INQ006509\_018

- consistently uphold standards in their responses to sexual harassment and online sexual abuse.

**31.** In the same review, Ofsted identified that *Keeping Children Safe in Education 2020* (which was the version in force at the time of the review) used outdated terms that are not understood by children, such as “sexting”. Ofsted considered that statutory guidance must be updated to reflect the language used by children.<sup>818</sup> The review gave an example of a school which used an anonymous questionnaire to ask pupils what the issues for their age group were and what language they used to describe them. Responses were built into staff training and helped build a culture where pupils, leaders and teachers had a shared understanding of harmful sexual behaviour.<sup>819</sup>

**32.** The NSPCC stated that a significant proportion of harmful sexual behaviour referrals to multi-agency processes are from schools. It identified that schools need clear guidance to assist them in identifying harmful sexual behaviour and how to manage and support the children involved. All staff should receive up-to-date information, research and guidance on this subject, because “*Where knowledge, awareness and confidence are low, cases of [harmful sexual behaviour] can be either ignored or subject to a disproportionate overreaction*”.<sup>820</sup>

**33.** Professor Simon Hackett, professor of child abuse and neglect at the University of Durham, identified that training for staff on harmful sexual behaviour amongst children with SEND is often inadequate and that there is a need to share expertise on these different areas:

*“we have not been very good in our professional system at sharing expertise or expert knowledge between different systems, so the child protection system and the field of harmful sexual behaviour has typically – has knowledge around harmful sexual behaviour but not necessarily knowledge around disability and, vice versa, the disability field maybe doesn’t have the more kind of forensic knowledge around harmful sexual behaviour. We really need to be integrating and bringing together these different service strands in terms of supporting and pooling knowledge and then disseminating that through training.”<sup>821</sup>*

### G.3: Training for school governors and proprietors

**34.** Governors or proprietors have responsibilities under KCSIE to ensure that all the policies, procedures and training in their schools are effective and properly implemented.<sup>822</sup> KCSIE requires that governing bodies and proprietors should have a senior board-level (or equivalent) lead to take responsibility for their school’s safeguarding arrangements.<sup>823</sup> The Independent School Standards have an express requirement of adequate leadership and governance, including governance of safeguarding.<sup>824</sup>

**35.** Despite these responsibilities, there is no mandatory safeguarding training for governors, trustees, proprietors or boards of management of state-funded or independent schools at present. Nor is there a standardised national safeguarding course for governors and proprietors.

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<sup>818</sup> INQ006509\_012

<sup>819</sup> INQ006509\_016

<sup>820</sup> NSP000143\_024 para 109

<sup>821</sup> Simon Hackett 8 October 2019 207/24-208/10

<sup>822</sup> INQ006502\_024 para 78

<sup>823</sup> INQ006502\_024 para 80

<sup>824</sup> The Education (Independent School Standards) Regulations 2014, Standard 8 set out in Schedule 1 of the Regulations

**36.** As identified in Part F, there are several instances in this investigation where the lack of suitable training and relevant experience hampered a school's governing body or trustees in their oversight of safeguarding. In some cases, governors lacked the necessary knowledge and understanding of safeguarding, while in other cases it appeared that governors felt unable to challenge or hold the headteacher to account.

**37.** The Inquiry heard evidence from the LADO for Bristol City Council, Ms Nicola Laird, that it would be helpful to have guidelines for training and a “benchmark” of the necessary safeguarding expertise for both the senior leadership team and also the governing body.<sup>825</sup> She noted that some governing bodies lacked the expertise to hold the headteacher to account and considered that training should be compulsory for at least the chair of governors and the safeguarding governor.<sup>826</sup>

**38.** Mr Nick Tolchard, chair of the College Council (the governing body) at Clifton College, considered that safeguarding training for governors was “essential”.<sup>827</sup> He told the Inquiry that when he first became chair of the College Council's safeguarding and welfare committee, he realised how much he did not know. Mr Tolchard said that he would like to see training for governors which is like “*continual professional development*”<sup>828</sup> and considered that it would “*make sense*” for governors to have such training.<sup>829</sup> When asked whether undertaking such training is too onerous, given the voluntary nature of the role, Mr Tolchard disagreed:

*“we have a personal responsibility on council for the well-being of the children in the school. So, to a certain extent, whatever it takes”.*<sup>830</sup>

**39.** Ofsted's *Review of sexual abuse in schools and colleges* identified that there were gaps in governors' knowledge of online safety issues in particular. It concluded that Ofsted's visits to 32 schools “*indicate that governors could receive better training and be more involved in tackling harmful sexual behaviours*”.<sup>831</sup>

**40.** The National Governance Association, representing governors and trustees of state-funded schools, told the Inquiry that there is no statutory requirement to train governors in holding executive leaders to account and no compulsory safeguarding training. The *Governance Handbook*, non-statutory advice for governors of state-funded schools, sets out that it is good practice if every member of the board has undertaken safeguarding training.<sup>832</sup>

**41.** The Association of Governing Bodies of Independent Schools (AGBIS) stated that most of its member schools expect governors to undertake at least the same level of training as their staff and AGBIS makes it clear that regular governor training in safeguarding is good practice. AGBIS is in favour of “*standardised minimum content and expectations of governors*” across both independent and state sectors, mandated and supported by the Department for Education.<sup>833</sup>

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<sup>825</sup> Nicola Laird 18 November 2020 126/14

<sup>826</sup> Nicola Laird 18 November 2020 126/13-127/1

<sup>827</sup> Nick Tolchard 17 November 2020 61/14

<sup>828</sup> Nick Tolchard 17 November 2020 62/18-19

<sup>829</sup> Nick Tolchard 17 November 2020 63/22-64/2

<sup>830</sup> Nick Tolchard 17 November 2020 64/7-12

<sup>831</sup> INQ006509\_018

<sup>832</sup> NGA000001\_002-003 paras 6-7

<sup>833</sup> INQ004426\_004 para 22

- 42.** The Independent Schools Inspectorate (ISI) supports consistent minimum levels of training for governors and proprietors, supplemented as appropriate, according to the circumstances and needs of the school.<sup>834</sup> Ofsted advocates the lead governor or trustee dealing with safeguarding should have training, which needs to be focussed on the specific role of the governing body in safeguarding.<sup>835</sup>
- 43.** The NSPCC, which runs a consultancy and training service for schools, considered that all governors should have safeguarding training to ensure that “*safeguarding is embedded in the school from the top and the leadership in safeguarding is taken seriously*”. The NSPCC was also in favour of governors receiving training in how to hold leadership to account.<sup>836</sup>
- 44.** The teaching unions also considered that there should be training for governors, at least for those exercising oversight of safeguarding.<sup>837</sup> Dr Roach of the NASUWT said:
- “it is essential that training is provided for governing boards. They may very well be volunteers, but they carry a weight of public responsibility as a result of the office that they assume, and that responsibility has got to be taken seriously ... it’s vitally important ... that they’re equipped to undertake that role, discharge that role, effectively, whether they are volunteers or not.”*<sup>838</sup>
- 45.** The Ofsted Review of sexual abuse in schools and colleges indicated that governors had “*some sort of safeguarding training*” (which did not necessarily include training on harmful sexual behaviour) in only approximately one-quarter of the 32 schools visited.<sup>839</sup> It appears that, in too many schools, governors do not receive any safeguarding training. The Department for Education is not currently proposing the introduction of mandatory training for governors or proprietors. Baroness Elizabeth Berridge said that the view of the government is that “*schools know their duty to provide appropriate training*”.<sup>840</sup>

## G.4: Awareness-raising for children in schools

- 46.** Research shows that children are more likely to recognise and to report sexual abuse if they have had RSE.<sup>841</sup> Professor Hackett considered that sex education plays an important role in preventing harmful sexual behaviour between children.<sup>842</sup>
- 47.** Since 2000, the PSHE and RSE curriculum for schools has included a component which addresses the need to have healthy relationships, how to stay safe, and how to identify abuse and to report it.
- 48.** In a 2013 survey of young people by the Sex Education Forum, 75 percent of children rated their RSE as “*very bad, bad or OK*”.<sup>843</sup> Ofsted had repeatedly expressed its concerns about the inconsistency and poor quality of relationships and sex education in reports it commissioned on PSHE between 2005 and 2013. In particular, Ofsted reports in 2007 and

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<sup>834</sup> ISI002180\_017 para 98

<sup>835</sup> Helen Humphreys 24 November 2020 55/15-16

<sup>836</sup> Almudena Lara 11 October 2019 79/5-19

<sup>837</sup> Amanda Brown 23 November 2020 128/24-129/10

<sup>838</sup> Patrick Roach 23 November 2020 129/12-24

<sup>839</sup> INQ006509\_018

<sup>840</sup> Elizabeth Berridge 25 November 2020 106/1-6

<sup>841</sup> INQ006517\_004

<sup>842</sup> Simon Hackett 8 October 2019 180/12-14

<sup>843</sup> INQ006517\_006



2013 identified a lack of training for teachers and insufficient time allocated within the school curriculum.<sup>844</sup> In 2014, 7 in 10 teachers said that they needed more training to deliver the subject properly.<sup>845</sup>

**49.** The Inquiry's investigation into child sexual abuse and exploitation facilitated by the internet found that 67 percent of children aged 12 and under and 46 percent of children aged 13 to 18 would welcome more education in schools about online safety.<sup>846</sup> Ninety-five percent of children who first received school-based online sexual harm education in primary school (years 4 to 6) thought this was the right age, whilst 80 percent of those who first received it in year 10 or later said this had been too late.<sup>847</sup>

**50.** Google conducted a survey in 2017 of over 200 teachers. Respondents thought that online safety should be taught from the age of 7 and 82 percent considered that they did not have all the resources they needed to teach online safety adequately.<sup>848</sup>

**51.** Since KCSIE was first published in 2014, it has placed a duty on governors and proprietors to ensure that children are taught about safeguarding, including online safety.<sup>849</sup> This may be covered through relationship education, for primary pupils, and through relationships and sex education for secondary pupils, and through health education for both.

**52.** In April 2017, the Children's Commissioner for England published *Preventing Child Sexual Abuse: The Role of Schools*.<sup>850</sup> This report highlighted that "*the potential role of schools in preventing child sexual abuse – giving children the knowledge to recognise abuse and seek help where necessary and the early identification of victims – is not yet being fulfilled*".<sup>851</sup> At that time, only half of primary schools reported that they taught subjects relating to sexual abuse, such as consent and safe touching, and a significant minority of secondary schools did not offer any teaching on this issue. The content and means of delivery of lessons also varied.<sup>852</sup>

**53.** Over the past decade a number of programmes have been developed by voluntary organisations such as the NSPCC, aimed at raising children's awareness of abuse and helping children to stay safe. Programmes have been created for children at different developmental stages and have been adapted for delivery to children with SEND.<sup>853</sup> While these programmes are not compulsory for schools, by February 2019 the NSPCC 'Speak Out, Stay Safe' programme, launched in 2016, had reached almost 84 percent of all primary schools across the UK.<sup>854</sup> However, the NSPCC is concerned<sup>855</sup> that its reach within the independent sector is "*significantly lower*", with only 59 percent of independent primary schools in England and Wales receiving the programme.<sup>856</sup>

**54.** RSHE became compulsory in all schools from September 2020. Both relationships education and sex education are compulsory in all secondary schools in England. Relationships education is compulsory for all children receiving primary education in

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<sup>844</sup> INQ006520; INQ006518

<sup>845</sup> INQ006517\_006

<sup>846</sup> *The Internet Investigation Report* Part F.5 para 44.1

<sup>847</sup> *Learning about online sexual harm* p57

<sup>848</sup> GOO000008\_001

<sup>849</sup> INQ006502\_032 para 119

<sup>850</sup> INQ004237

<sup>851</sup> INQ004255\_007 para 23

<sup>852</sup> INQ004255\_007 para 24

<sup>853</sup> NSP000143\_018-019 paras 85–87; NSP000118

<sup>854</sup> NSP000143\_002 para 8

<sup>855</sup> Almudena Lara 11 October 2019 75/2-7

<sup>856</sup> NSP000143\_017 para 79



England, and primary schools may also teach sex education if they wish to do so.<sup>857</sup> While it is compulsory for schools to teach these subjects, parents have a right to withdraw their children from sex education which is not part of the science curriculum, although not from relationships or health education.<sup>858</sup>

**55.** The Department for Education has developed a new RSHE curriculum, although the disruption caused by the COVID-19 pandemic has affected schools' ability to plan and deliver this curriculum.<sup>859</sup> The new curriculum is set out in statutory guidance, published in 2019, and applies to all schools in England from September 2020.<sup>860</sup> That identifies an outline curriculum of what should have been taught by the end of each key stage. The primary school relationships education curriculum involves teaching children about healthy and respectful relationships and about online safety, as well as the concept of privacy, bodily autonomy and how to deal with adults they may meet, including online. Pupils learn about how to report concerns or abuse, and the vocabulary and confidence to do so.<sup>861</sup> By the end of secondary school, pupils should know the concept of and laws relating to sexual consent, exploitation, abuse and grooming, and how they can affect current relationships.<sup>862</sup>

**56.** Ofsted's *Review of sexual abuse in schools and colleges* in 2021 reported that children and young people were rarely positive about the RSE they had received and they "*felt that it was too little, too late and that the curriculum was not equipping them with the information and advice they needed to navigate the reality of their lives*".<sup>863</sup> Some girls expressed frustration that there was not explicit teaching of what was acceptable and unacceptable behaviour. However, in some schools Ofsted found evidence that RSE lessons helped children's understanding of these issues. This led to a culture where children felt able to talk to someone about sexual harassment and sexual violence, or to raise concerns about their peers. Ofsted stressed the importance of a carefully planned and implemented RSE curriculum as well as training for staff and governors, in order to create a school culture where harmful sexual behaviour is recognised and addressed. Ofsted concluded that the curriculum "*should include time for open discussion of topics that children and young people find particularly difficult, such as consent and the sending of 'nudes'*".<sup>864</sup>

**57.** Children and young people from the same schools reported both positive and negative experiences of RSE, depending on teachers' levels of subject knowledge and confidence. These findings indicate that additional resources to support non-subject specialists to teach RSE would be beneficial for schools to help them successfully implement the new curriculum.

### **Awareness-raising for children with special educational needs and disabilities**

**58.** Research indicates that a significant proportion of those referred to services for young people who have experienced harmful sexual behaviour also have learning disabilities.<sup>865</sup> Professor Hackett considered that the reasons for the high proportion of referrals were complex and not necessarily indicative of a greater incidence of harmful sexual behaviour by

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<sup>857</sup> DFE002039\_008 para 3

<sup>858</sup> DFE002039\_017-018 paras 45-50

<sup>859</sup> INQ006509

<sup>860</sup> DFE002039

<sup>861</sup> DFE002039\_020-022 para 62

<sup>862</sup> DFE002039\_027-029 para 81

<sup>863</sup> INQ006509\_004

<sup>864</sup> INQ006509\_005

<sup>865</sup> Simon Hackett 8 October 2019 176/14-177/2

children with SEND.<sup>866</sup> However, he observed that children with disabilities have often been denied the same level of sex education as non-disabled peers in the past, which has led to a restricted understanding around sex and sexual relationships.<sup>867</sup>

**59.** Dame Christine Lenehan considered that there was *“a lot of really poor baseline practice in understanding how to teach the basic rules of engagement for children”*.<sup>868</sup> Children with SEND may engage in conduct which is labelled as sexualised or predatory simply because they have not been taught about appropriate boundaries for behaviour within the school setting.

**60.** Mencap undertook a survey of those working with children with learning disabilities which identified that only 21 percent of professionals considered that children with a learning disability have the skills and knowledge to form healthy relationships and only 13 percent considered that young people with a learning disability had the skills and knowledge to fulfil their sexual rights.<sup>869</sup>

**61.** Mr James Robinson, policy and strategic lead for children and young people at Mencap, considered that RSHE can play a vital role in helping those with learning disabilities to stay safe and to understand and manage their own sexual behaviours.<sup>870</sup> However, the RSHE curriculum needs to be adapted to the needs of children with learning disabilities – not simply from the perspective of learning needs, but also the different and often more limited life experiences of these children. The experience of Mencap was that this specialised approach was often not achieved.<sup>871</sup>

**62.** Ms Karen Gaster, headteacher of Southlands School, which caters for children with high-functioning autism or Asperger’s syndrome,<sup>872</sup> said that *“Appropriate and effective sexuality education is particularly important for those with Asperger’s due to their issues of sexual vulnerability and social and sexual anxiety”*. The school had to develop its own RSHE programmes to meet the needs of its pupils because *“Conventional sexuality education for those with ASD is not entirely appropriate for their needs, abilities and circumstances”*.<sup>873</sup>

**63.** There is no separate syllabus or curriculum provided for those with SEND in the current government guidance on RSHE. There is no separate practice guidance issued by the government about teaching RSHE to children with SEND. The guidance on RSHE contains three paragraphs which expressly deal with children with SEND. This identifies that *“there may be a need to tailor content and teaching to meet the specific needs of pupils at different developmental stages”*.<sup>874</sup>

**64.** Mr Robinson gave evidence about the new RSHE curriculum and identified that the *“guidance itself is wholly inadequate in terms of being able to meet the needs of children with a learning disability”*.<sup>875</sup> He considered that both in special schools and in mainstream settings, staff did not have the required level of training or resources to make RSHE accessible to pupils with additional needs.<sup>876</sup> Mencap also identified that there should be

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<sup>866</sup> Simon Hackett 8 October 2019 177/3-180/6

<sup>867</sup> Simon Hackett 8 October 2019 180/12-25

<sup>868</sup> Christine Lenehan 7 October 2019 42/14-22

<sup>869</sup> MEN000001\_005 para 19

<sup>870</sup> MEN000001\_005 paras 20–22

<sup>871</sup> MEN000001\_005 para 22

<sup>872</sup> SLS000108\_001 para 4

<sup>873</sup> SLS000108\_031 para 114

<sup>874</sup> DFE002039\_015 paras 33–35

<sup>875</sup> James Robinson 7 October 2019 91/25-92/2

<sup>876</sup> James Robinson 7 October 2019 90/11-17

greater leadership by the government to make sure that RSHE is accessible to those with SEND and to support the development of the necessary expertise in teaching RSHE to these children.<sup>877</sup>

**65.** Ms Carol Povey, director of the Centre of Autism at the National Autistic Society, told the Inquiry that autistic children vary widely in their abilities, but all find it difficult to communicate with others and to express their own emotions, which can make it very hard for them to navigate the social world.<sup>878</sup> Autistic children need to be taught the skills which other children acquire incidentally.<sup>879</sup> There are a number of features of autism which may make it more difficult to identify whether sexual abuse has taken place or for children to understand that they are being abused.<sup>880</sup> Autistic girls, in particular, may camouflage their difficulties with social relationships and their lack of understanding about how to keep themselves safe.<sup>881</sup> There are also particular issues with autistic children and their relationships within the online world, in particular as many autistic children form their social groups using online platforms, where they feel able to communicate more freely.<sup>882</sup>

**66.** The National Autistic Society identified that RSHE teaching is particularly important in enabling autistic children to navigate these issues.<sup>883</sup> It considered that staff delivering the RSHE curriculum need to have been suitably trained to support autistic children.<sup>884</sup>

**67.** Ms Povey considered that the guidance on delivering RSHE to children with SEND was insufficiently detailed in this regard, especially as many autistic children are educated in mainstream schools where staff lack the expertise to adapt their curriculum to the needs of autistic pupils.<sup>885</sup>

**68.** Ms Jolanta McCall, chief executive and principal of the Seashell Trust which runs the Royal School Manchester, explained the need for experiential and direct modelling of behaviours for children with multiple and profound disabilities. Carefully developed programmes at the school have helped these children to know what is socially acceptable and the difference between public space and private space.<sup>886</sup>

**69.** In her evidence to the Inquiry in October 2019, Dame Christine Lenehan identified that there was a “*lack of clarity*” from central government and a lack of resources, and that in the current government programme “*there is no specific reference or inclusion of SEND in as far as we can see*”.<sup>887</sup> The statutory guidance does not include any link to RSE resources for those with SEND and there are no specific resources issued by central government for schools to help them.<sup>888</sup>

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<sup>877</sup> MEN000001\_006-007 paras 26–29

<sup>878</sup> NAS000017\_003-004 paras 19–20

<sup>879</sup> NAS000017\_020 para 117

<sup>880</sup> NAS000017\_010-011 paras 49–53

<sup>881</sup> NAS000017\_015 para 79

<sup>882</sup> NAS000017\_020 para 119

<sup>883</sup> NAS000017\_020-021 paras 115–120

<sup>884</sup> NAS000017\_021 para 120

<sup>885</sup> Carol Povey 7 October 2019 91/2-3

<sup>886</sup> Jolanta McCall 10 October 2019 167/9-168/3; SST000084

<sup>887</sup> Christine Lenehan 7 October 2019 43/10-23, 44/10-20

<sup>888</sup> DFE002039\_046-048 Annex B

**70.** Nick Gibb MP, then Minister for School Standards, told the Inquiry in November 2020 that training modules for teachers on the new RSHE curriculum are “*being rolled out through the teaching schools*”. He said that:

*“There is provision for children’s special educational needs as well to help – all the training modules actually cover safeguarding and support for pupils with special educational needs and disability.”<sup>889</sup>*

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<sup>889</sup> [Nick Gibb 25 November 2020 160/21-161/5](#)



Part H

# Inspection and enforcement in England

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# Inspection and enforcement in England

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## H.1: Introduction

1. Inspection is a key part of the safeguarding framework in schools, with all registered schools being subject to it. This Part of the report focusses on inspection and enforcement in England based on the 12 schools considered in this investigation and evidence provided by the institutions involved in safeguarding in England. Inspection and enforcement in Wales is considered in Part J.
2. In England, the Department for Education regulates all schools and can take enforcement action when there are serious safeguarding concerns. The Charity Commission also has an enforcement role in relation to schools which are also registered charities. The Charity Commission's role is focussed on the conduct of charity trustees and the steps they take to protect a charity and its beneficiaries.<sup>890</sup>

## H.2: Inspection

3. There are two school inspectorates in England: the Office for Standards in Education, Children's Services and Skills (Ofsted) and the Independent Schools Inspectorate (ISI). Ofsted is a non-ministerial government department linked to, but independent of, the Department for Education<sup>891</sup> established in 1992 to inspect educational standards in schools. The ISI was formed in 1999,<sup>892</sup> and was first approved by the Secretary of State for Education under the Education Act 2002 to inspect some independent schools (see paragraph 12).<sup>893</sup> Ofsted inspects the majority of schools: all state-funded schools, 46 percent of independent schools and all residential special schools. The ISI inspects 54 percent of independent schools.<sup>894</sup>
4. The schools sector is unusual in having two inspectorates which differentiate between state-funded and private schools. For example, in the field of social care in England there is one inspectorate, which also acts as a regulator, for social care provision for adults (Care Quality Commission) and one for children (Ofsted). They inspect all types of providers of social care services: private, state-funded, voluntary or charitable. There is therefore consistency across social care inspection reports, irrespective of who is providing the service.
5. Having two inspectorates with different inspection frameworks means it is difficult to compare safeguarding judgements on independent schools, depending on whether they are inspected by Ofsted or ISI, and may make it more difficult to ensure consistency of inspections.

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<sup>890</sup> CYC000410\_008 paras 22 and 25

<sup>891</sup> OFS011561\_002 para 6

<sup>892</sup> ISI001574\_003 para 14

<sup>893</sup> ISI001574\_006 para 22

<sup>894</sup> ISI001574\_009-010 para 42



6. Between 2003 (when the ISI was approved by the Secretary of State to carry out inspections)<sup>895</sup> and the 2016/17 school year, Ofsted prepared an annual report on the quality of inspections and reports by the ISI (Section 107 of the Education and Skills Act 2008). From 2017/18, Ofsted considered that it was not in a position to quality assess ISI inspections, as it had not been commissioned to consider a sufficient number of inspections.<sup>896</sup> This quality control arrangement was replaced in 2019/20 by a joint working arrangement described as “*collaborative working to develop and inform inspection practice across Ofsted and ISI*”.<sup>897</sup> This collaborative working does not include any alignment of the frameworks for inspecting safeguarding in schools. Amanda Spielman, Her Majesty’s Chief Inspector for Education, Children’s Services and Skills, said that Ofsted and the ISI had ruled out undertaking aligned inspections of the small number of schools where Ofsted inspects residential welfare and the ISI inspects educational quality on the basis that the benefits would be outweighed by the burden of a new jointly agreed framework, inspection protocols and Memorandum of Understanding.<sup>898</sup>

### State-funded schools

7. Ofsted inspects all state-funded schools (maintained schools or academies). At the time of the Phase 2 hearings (November 2020) some state-funded schools had not been inspected for a considerable period of time. This was because between 2010 and September 2021, schools judged outstanding at an inspection were exempt from further routine inspections at the direction of the Secretary of State for Education.<sup>899</sup> In November 2020, there were 1,000 state-funded mainstream schools which had not been inspected for 10 years;<sup>900</sup> some schools had not been inspected for 13 years.<sup>901</sup>

8. Ofsted inspects the educational provision of state-funded schools against its education inspection framework, which was introduced in September 2019.<sup>902</sup> Under this framework, inspectors do not provide a separate grade for safeguarding, but they make a written judgement under ‘leadership and management’ about whether the arrangements for safeguarding learners are effective.<sup>903</sup>

9. From 2009, safeguarding was introduced as a limiting judgement, which meant that if safeguarding was judged to be ineffective the school would be judged to be inadequate.<sup>904</sup> This was one of a number of changes intended to place a greater emphasis on the importance of safeguarding, including a requirement that pupils, parents, staff, governors and other stakeholders must be given opportunities to speak with inspectors without the headteacher or staff present.<sup>905</sup>

10. Ofsted inspects the residential component of state boarding schools and state-funded residential special schools against its social care common inspection framework for boarding schools and residential special schools (SCCIF) and the national minimum standards

<sup>895</sup> ISI001574\_006 para 22

<sup>896</sup> ISI001574\_014 para 70

<sup>897</sup> ISI001574\_015 para 72

<sup>898</sup> OFS012666\_015 para 55

<sup>899</sup> DFE002073\_042 para 166

<sup>900</sup> Nick Gibb 25 November 2020 127/7-9

<sup>901</sup> Amanda Spielman 24 November 2020 40/10-17

<sup>902</sup> INQ006534

<sup>903</sup> INQ006539\_051-052 paras 265–268

<sup>904</sup> OFS012669\_008 para 28(a)

<sup>905</sup> OFS012669\_008-010 paras 27–31

(NMS) for boarding schools and residential special schools.<sup>906</sup> The SCCIF contains detailed safeguarding requirements, including requirements to ensure that the school has effective links with local authorities, designated officers and other important safeguarding agencies.

**11.** Ofsted has the power to carry out inspections without giving state-funded schools notice.<sup>907</sup> It may do so when there are serious concerns about one or more of the following: the breadth and balance of the curriculum; rapidly declining standards; safeguarding; a decline in standards of pupils' behaviour and the ability of staff to maintain discipline; and standards of leadership or governance.<sup>908</sup>

## Independent schools

**12.** The Independent Schools Inspectorate (ISI) inspects those independent schools which are members of the associations of the Independent Schools Council (association independent schools). These schools constitute around 54 percent of all independent schools, representing approximately 80 percent of all children educated in the independent sector.<sup>909</sup> The ISI inspects both educational provision and residential welfare for these schools.<sup>910</sup>

**13.** The ISI has two main types of inspection: a regulatory compliance inspection and an educational quality and focussed compliance inspection.<sup>911</sup> An independent school will receive both inspections in a six-year cycle, with an inspection around every three years. During a regulatory compliance inspection, the ISI checks that the independent school is meeting all the Independent School Standards (ISS). An educational quality and focussed compliance inspection looks at the quality of education being provided by the school and key ISS, including the standard which focusses on safeguarding.<sup>912</sup>

**14.** When considering whether the safeguarding standard is met, ISI inspectors will review whether the school has created a “*culture of safety*”; arrangements for dealing with peer-on-peer allegations, safer recruitment and management of safeguarding; and the school's safeguarding policies.<sup>913</sup> The ISI also inspects residential welfare for association independent schools against the NMS for boarding schools.

**15.** Ofsted inspects non-association independent schools (approximately 20 percent of all children educated in the independent sector attend these schools), using its education inspection framework and the ISS to inspect the educational provision and its social care common inspection framework and the NMS for boarding schools.<sup>914</sup> Ofsted also inspects all independent residential special schools.

**16.** The inspectorates do not have the power to inspect independent schools without notice.<sup>915</sup> They can only do so at the request of the Department for Education. The Department for Education can commission the ISI and Ofsted to carry out an emergency

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<sup>906</sup> INQ006542; Helen Humphreys 24 November 2020 96/17-23; DFE003174; DFE002018

<sup>907</sup> Section 8(2) of the Education Act 2005; OFS011561\_019 para 80

<sup>908</sup> INQ006539\_018 para 98

<sup>909</sup> ISI001574\_010 para 42

<sup>910</sup> ISI001574\_008 para 34

<sup>911</sup> ISI001574\_017 para 81

<sup>912</sup> Schedule 1 para 7 of the Education (Independent School Standards) Regulations 2014

<sup>913</sup> ISI001481\_023-034

<sup>914</sup> ISI001574\_009-010

<sup>915</sup> Ofsted can inspect state-funded schools without notice (see below).

inspection of an independent school for any reason, such as a complaint or other intelligence which raises a concern about safeguarding. All emergency inspections are carried out with no notice.<sup>916</sup>

## The limitations of inspection

**17.** Her Majesty's Chief Inspector for Education, Children's Services and Skills, Ms Amanda Spielman, described inspection as a "*limited tool*" which is "*designed and works well as an assessment of competence*".<sup>917</sup> This reflects the fact that it is the role of each school itself to ensure that its safeguarding is effective. In some of the schools examined, school leaders were overly reliant on the inspectorates to assess their safeguarding and failed to take responsibility for undertaking their own regular evaluations of the effectiveness of the school's safeguarding arrangements.

**18.** Even taking account of some of the inherent limitations of inspection, some inspections at the schools examined were poorly conducted. In its *Stanbridge Earls School Review Report*, Ofsted acknowledged that four inspections of the school between January 2011 and January 2013 had "*failed to get underneath concerns at the school*" and that each had been problematic in some respect.<sup>918</sup> This included the concern that inspectors had not used "*information as a trigger for further inquiry*".<sup>919</sup>

**19.** Ofsted was able to carry out a thorough review of the quality of the Stanbridge Earls inspections and to expose their flaws because it still had access to the evidence bases used by the inspectors to make their judgements. That was not the case for the majority of the inspection reports of the schools examined by the Inquiry.

**20.** In 2009, Ofsted retained its evidence bases for three months after inspection and by 2011 the retention period was six months after inspection for most settings (subject to a complaint being lodged).<sup>920</sup> Since 2015, most inspection activity has been recorded electronically and held for six years.<sup>921</sup>

**21.** In some of the schools examined, Ofsted had judged safeguarding to be good or outstanding at a time when there was evidence of deficiencies in the safeguarding arrangements of the school. The retention policy in place at the time meant that in most cases it was not possible for the Inquiry to examine the evidence used for the inspection judgements. This was the case for Headlands School (reports in 2004 and 2008), Hillside First School (reports in 2006 and 2009) and Stony Dean School (2002 inspection).<sup>922</sup> In all these cases, Ofsted stated that it was not in a position to identify any failings in the inspections as the evidence base was not available.<sup>923</sup>

**22.** There was also a similar issue in respect of schools inspected by the ISI. At Clifton College, the different ISI judgements in 2013 and 2015 were difficult to assess in detail because the documentary evidence base from the 2013 inspection no longer existed.<sup>924</sup>

<sup>916</sup> OFS011561\_030 para 122; ISI001478; ISI001574\_020 para 96

<sup>917</sup> Amanda Spielman 24 November 2020 19/3-9

<sup>918</sup> OFS005099 - the phrase "*failed to get underneath concerns at the school*" is used three times in the report.

<sup>919</sup> OFS005099\_006

<sup>920</sup> NSO000014\_002

<sup>921</sup> John Kennedy 24 November 2020 119/21-25

<sup>922</sup> OFS012669\_044, 023, 037 para 11 (Hillside), paras 70 and 112 (Headlands); OFS0011578\_006 para 15 (Stony Dean)

<sup>923</sup> John Kennedy 24 November 2020 120/3-23 (Hillside); John Kennedy 24 November 2020 101/5-8 (Headlands); OFS0011578\_006 para 15 (Stony Dean)

<sup>924</sup> ISI002178\_020 para 86

### *Inspection as a snapshot*

**23.** Both the ISI and Ofsted said that inspection makes an assessment of competence and compliance at a school at a moment in time.<sup>925</sup> Inspectors do, however, ask a school to inform them of any safeguarding concerns that have arisen since the last inspection.<sup>926</sup> Inspection reports do not set out the limitations of or any caveats to the safeguarding judgements.

**24.** The limited remit of inspections is not always made sufficiently clear to parents and carers. This is not surprising when Ofsted reports and ISI educational quality reports make a qualitative judgement on the effectiveness of arrangements for safeguarding pupils in the school.<sup>927</sup> Inspectorates have a responsibility to ensure reports are clear, unambiguous and easily understood.

**25.** RS-A299, who was abused by Nigel Leat at Hillside First School when she was under nine years old, expressed her disappointment in the inspection process (there were two Ofsted inspections of the school in 2006 and 2009 during the time Leat was sexually abusing young girls including RS-A299):

*“You put your trust and your faith in that these sort of organisations are made for that purpose, to ensure that everything within a school and within a teaching environment is made and fit for purpose. So it is unbelievable that they have managed to go into a school and give it an Ofsted and teaching – like, to give it a report that it’s excellent, when you almost wonder how you can come to that conclusion, or where they were or what they were actually reporting on, if not the children”.*<sup>928</sup>

**26.** Safeguarding issues at Hillside First School were not uncovered during inspections in 2006 and 2009. In June of the 2005/06 school year, Ofsted carried out a two-day inspection.<sup>929</sup> Care, guidance and support were judged to be ‘outstanding’. Procedures for ensuring child protection and pupils’ health and safety were found to be well established and effective. The inspection found that pupils felt very safe and knew that adults would “*always sort out their problems*”.<sup>930</sup> In January of the 2008/09 school year, Ofsted conducted a one-day inspection at the school.<sup>931</sup> This inspection found that the procedures for safeguarding met current government requirements. The report also included the following judgement:

*“pupils feel exceptionally safe and secure because they know that staff have their well-being at heart and are always prepared to listen, help and take action”.*<sup>932</sup>

**27.** At the time of the January 2009 inspection, RS-A299 was in Leat’s class at Hillside First School. She said that she tried to tell the headteacher, Mr Christopher Hood, that “*something had happened*” between Leat and RS-A346, but that he did not ask any questions.<sup>933</sup> The only adult at school she and RS-A346 considered talking to was a teaching assistant who left the school before they were able to disclose anything.<sup>934</sup> The evidence from Mr Hood and the deputy headteacher and designated safeguarding lead (DSL), Ms Bamford,

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<sup>925</sup> Richard Johnson 27 November 2020 83/21-22

<sup>926</sup> Helen Humphreys 24 November 2020 22/2-6, 47/8-17; John Kennedy 24 November 2020 30/24-31/3

<sup>927</sup> INQ006539\_031 para 922

<sup>928</sup> RS-A299 20 November 2020 30/22-31/6

<sup>929</sup> OFS011762

<sup>930</sup> OFS012669\_002 para 6

<sup>931</sup> OFS011764

<sup>932</sup> OFS012669\_003 para 10

<sup>933</sup> RS-A299 20 November 2020 18/4-25

<sup>934</sup> RS-A299 20 November 2020 20/8-20

about their response to the five members of staff reporting in May 2008 concerns about Leat's favouritism with RS-A320<sup>935</sup> suggests that they had no understanding of the clear safeguarding guidance in place at the time, or else were unwilling to implement it. This fundamental misunderstanding of the basic principles of safeguarding was not identified by Ofsted.<sup>936</sup>

**28.** Mr John Kennedy, assistant regional director at Ofsted, said that inspectors only being in the school for one day in the 2008/09 school year, part of the “*Reduced Tariff Inspection*” policy of the Department for Education,<sup>937</sup> would have meant that they were highly reliant on the school's own self-evaluation. In that context, the lack of understanding of safeguarding policies and procedures or meaningful oversight by the governing body would have been less apparent.<sup>938</sup> This suggests that the individual management review of the school carried out for the subsequent serious case review in relation to Leat's abuse was correct when it concluded in 2011 that:

*“The current external inspection and regulation arrangements for schools are insufficiently intrusive and robust, particularly in relation to safeguarding arrangements and practice. The agencies responsible for conducting this activity do not have the capacity or remit to undertake in depth intrusive scrutiny unless issues have already been identified.”<sup>939</sup>*

### *Reliance on honesty and integrity*

**29.** In a number of cases, inspections at the schools examined were hampered by senior staff or governors withholding relevant safeguarding information.

**30.** Ms Elizabeth Coley, retired reporting inspector for the ISI, stated that the inspectorates were reliant “*on people telling us the truth and for documents not to be falsified*” and said that “*children have been coached not to tell inspectors what's really going on*”.<sup>940</sup> Ms Amanda Spielman, Her Majesty's Chief Inspector for Education, Children's Services and Skills, also referred to the difficulties in inspection where leaders are not honest about safeguarding concerns:

*“firstly, that where there is deliberate concealment, especially by senior leaders, it is extraordinarily difficult to get into it until you know that there is something there, And secondly, when people know what they should do and deliberately withhold or deliberately omit, it is much, much harder to spot omissions than it is to spot errors and misstatements.”<sup>941</sup>*

**31.** During the 2013 inspection of Chetham's School of Music, the headteacher, Ms Claire Moreland, initially failed to declare that a member of staff, Wen Zhou Li, had been arrested for non-recent sexual offences against a pupil only two or three weeks before the inspection.<sup>942</sup> The ISI had been given this information by the local authority which was

<sup>935</sup> DFE003202\_003-004

<sup>936</sup> Christopher Hood 20 November 2020 121/1-132/16; Michelle Bamford 23 November 2020 73/15-76/14, 88/19-96/18; DFE003202\_003-004

<sup>937</sup> OFS012669\_003 para 9; DFE002073\_041 para 161

<sup>938</sup> John Kennedy 24 November 2020 110/12-111/11

<sup>939</sup> OFS011782\_057

<sup>940</sup> Elizabeth Coley 2 October 2019 132/16-23

<sup>941</sup> Amanda Spielman 24 November 2020 19/22-20/4

<sup>942</sup> Elizabeth Coley 2 October 2019 95/18-102/13

conducting an inspection at the same time and therefore knew to press the headteacher on this point.<sup>943</sup> This illustrates both the extent to which the inspectorates are reliant on headteachers telling the truth and the importance of information-sharing.

**32.** In 2009, at The Purcell School for Young Musicians, there was a concerted effort by the chair of governors, Mr Graham Smallbone, to manage and downplay the safeguarding concerns that had been raised in respect of the headteacher to Ofsted, despite an allegation against the headteacher being found to be substantiated by the local authority. The inspector recorded that, after meeting with the chair of governors, she “*felt very confident that the issues are being addressed appropriately and effectively by the governing body*”.<sup>944</sup> The Ofsted report did not address the fact that the local authority had been notified of concerns by whistleblowers on the school staff who had no confidence in the safeguarding regime at the school. The report stated that “*There has been a small but effective element within the staff team which has actively undermined the headteacher and the school*”.<sup>945</sup> This was not a fair or accurate representation of the actions of whistleblowers on the school staff. The inspectors were too ready to accept the assertions of the chair of governors.<sup>946</sup>

**33.** The ISI considered that Mr Mark Moore, headteacher at Clifton College, had been less than candid about issues at the school. After an inspection visit in December 2013, the ISI was made aware by a parent of the existence of a complaint which the inspector had not had sight of during the visit.<sup>947</sup> Following the arrest of Jonathan Thomson-Glover, Mr Moore wrote to the ISI in January 2015 claiming that there had never been any concerns about the behaviour of Thomson-Glover at the school. The ISI then conducted an inspection of the school in July 2015. In a letter written to the Department for Education to support the ISI’s conclusion that there had been breaches of both the ISS and NMS, the ISI also noted that “*documentary evidence seen at the college does not support*” Mr Moore’s assertion that there had been no parental complaints or concerns about Thomson-Glover’s conduct at the school.<sup>948</sup>

**34.** Ofsted also considered that its boarding welfare inspection of Clifton College in 2009 was hampered by the leadership at the school. The inspection toolkit recorded the inspector as saying, “*wherever I went in the school, staff asked my background and qualifications and made it clear that they felt I shouldn’t be there. It was the most hostile environment I have ever encountered as an inspector*”.<sup>949</sup>

**35.** Ms Helen Humphreys, a specialist advisor for residential care, made clear that an inspector relies on the integrity and honesty of the senior leaders in a school to follow their own policies and practice, and to put the welfare of their pupils first. She stated that an inspector’s ability to carry out their work effectively is limited if a school is not open to inspection or sets out to deceive inspectors.<sup>950</sup>

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<sup>943</sup> Elizabeth Coley 2 October 2019 99/10-102/24

<sup>944</sup> OFS011578\_077 para 187(d)

<sup>945</sup> OFS007309\_009

<sup>946</sup> OFS011578\_076-087

<sup>947</sup> ISI002178\_027 paras 122–125

<sup>948</sup> ISI002178\_028-031 paras 129 (iii) and (viii)

<sup>949</sup> OFS012667\_011 para 32

<sup>950</sup> OFS012667\_012 para 35



### Poor information-sharing

**36.** Ms Spielman said that “*There are many weaknesses at the moment in the sharing of information around the system*”.<sup>951</sup> She described an “*enormous web of information*” which Ofsted was not able to access easily, which would improve the quality of its inspections.<sup>952</sup> She considered that there should be:

*“a policy priority for good information sharing between all the bodies, a recognition that we are all parts of a larger system of assurance and that, if we don’t – unless we share the information we have, we are handicapping others in doing their job”*.<sup>953</sup>

For example, Ms Spielman did not consider that the Department for Education was consistently sharing all relevant information with Ofsted.<sup>954</sup> In her view:

*“it is often the case that we are expected to inspect blind, when others do hold information but, for various reasons, don’t share it with us, perhaps because their investigations have not reached the point of final determination.”*<sup>955</sup>

**37.** The ISI agreed that the quality of inspections would be improved by getting information in a timely way from other institutions in the safeguarding framework, including:

- local authorities, particularly the local authority designated officer (LADO);
- schools;
- the Disclosure and Barring Service;
- the Teaching Regulation Agency;
- the Charity Commission;
- the Education and Skills Funding Agency and the Standards and Testing Agency; and
- the Department for Education.<sup>956</sup>

**38.** Mr Kennedy explained that a teacher might have been prohibited from teaching due to safeguarding issues, but Ofsted would not know because “*routinely, we are not given that information*”.<sup>957</sup>

**39.** Both inspectorates said that the response from LADOs to their requests for information prior to inspections was variable.<sup>958</sup> The ISI had around a 40 percent response rate (spring 2019 figures) to their routine emails to LADOs asking for information about a school prior to an inspection. There was a wide degree of variation between local authorities, with around 50 percent of LADOs never responding to contact and the other half responding with varying degrees of regularity.<sup>959</sup> The ISI took steps to improve its relationship with LADOs, changed the way data were requested and gave LADOs longer to respond but by spring 2020 this had only led to a response rate of 45 percent.<sup>960</sup>

<sup>951</sup> Amanda Spielman 10 October 2019 98/23-24

<sup>952</sup> Amanda Spielman 24 November 2020 33/22-35/6

<sup>953</sup> Amanda Spielman 24 November 2020 34/15-20

<sup>954</sup> Amanda Spielman 24 November 2020 34/23-35/2

<sup>955</sup> Amanda Spielman 24 November 2020 32/21-33/1

<sup>956</sup> ISI001574\_026-030 paras 117–128

<sup>957</sup> John Kennedy 24 November 2020 31/16-20

<sup>958</sup> ISI002180\_009 para 41; John Kennedy 24 November 2020 31/13-15

<sup>959</sup> ISI001574\_030 para 130

<sup>960</sup> ISI002180\_009 para 42



**40.** Ofsted is in favour of requiring residential special schools and boarding schools to send serious incident reports to the inspectorates. This requirement was in place between 2003 and 2012 for residential special schools.<sup>961</sup> Ofsted considers that this would “allow the inspectorate to monitor the effectiveness of any action the school has taken and consider whether any information should be shared with other agencies. Inspectorates will be able to build up a body of knowledge about the effectiveness of leaders and managers to manage significant incidents and develop appropriate key lines of enquiry for inspection”.<sup>962</sup> The Department for Education has recently consulted on the introduction of a requirement for residential schools to notify the Department for Education and the inspectorates of serious incidents through the National Minimum Standards for Boarding Schools and Residential Special Schools. The Inquiry understands that the Department for Education intends to publish the government’s response to the consultation in the early part of 2022, and that the response will include details of the Department’s intentions in relation to the notification proposal in the consultation.

### *Safeguarding consequences of financial constraints*

**41.** Ms Spielman stated that there has been a 52 percent cut in real terms since 2000 to Ofsted’s funding for school inspections.<sup>963</sup> She noted that, over the last 20 years, “Successive governments ... have made reducing the perceived burden of regulation on schools a policy priority and so have reduced the scale of school inspection and its funding very substantially”.<sup>964</sup> As a result, inspectors have spent less time in schools and schools have been inspected less frequently. Being in a school for only one or two days makes identifying safeguarding problems more difficult. Ms Spielman told us:

*“There’s also simply being in a school for longer gives you a greater ability to recognise the kinds of anomaly and inconsistency I talked about. So on behaviour, for example, as one of my colleagues who is an experienced secondary inspector once put it, people can hide a great deal over one day, it gets harder on two, and for behaviour it’s almost impossible to conceal serious behaviour problems by the third day.”<sup>965</sup>*

**42.** Ms Kate Richards, chief inspector of the ISI until 2020, said that cuts to the inspection budget of Ofsted and the Department for Education led association schools to challenge the ISI to “follow suit”.<sup>966</sup> This led to the creation of less burdensome inspections which just inspect schools against the ISS (regulatory compliance inspections).

**43.** A school inspected by the ISI currently has two inspections in a six-year cycle, one of which is two days long and the other is three days long.<sup>967</sup> Ms Rhiannon Williams, current deputy chief inspector of the ISI, considered that the ISI was “sufficiently well funded for what we need to do and we have sufficient time on inspection”.<sup>968</sup>

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<sup>961</sup> Amanda Spielman 10 October 2019 100/3-18

<sup>962</sup> OFS012748\_001

<sup>963</sup> OFS012666\_008 para 26

<sup>964</sup> OFS012666\_008 para 25

<sup>965</sup> Amanda Spielman 24 November 2020 41/13-20

<sup>966</sup> ISI001574\_019 para 92

<sup>967</sup> Rhiannon Williams 27 November 2020 54/8-21

<sup>968</sup> Rhiannon Williams 27 November 2020 54/6-8

44. The current government made a manifesto pledge to increase Ofsted inspections from two days to three days. Nick Gibb MP, then Minister for School Standards, said that “*a lot of these things were put on hold due to the pandemic*” but that the government “*want to fulfil our manifesto commitment*”.<sup>969</sup>

## H.3: Enforcement

### Overview

45. In any case where the Secretary of State for Education is satisfied that a local authority or governing body of a maintained school is acting unreasonably, the Secretary of State has the power to intervene by giving directions as to the exercise of the relevant power or duty.<sup>970</sup> Generally, enforcement action only takes place after an inspection by Ofsted judges the school as requiring significant improvement or special measures.<sup>971</sup>

46. In those circumstances, if it is a **maintained school**:

- the local authority or the Department for Education can intervene to put additional governors in place or appoint an interim executive board; and
- the Secretary of State for Education can make an academy order under the Academies Act 2010 which converts the school to an academy – this is what usually happens, rather than changes to governance.<sup>972</sup>

47. **Academy schools** are governed by a funding agreement between the academy trust which runs the school and the Secretary of State for Education. If an academy school goes into ‘special measures’, the Department for Education can terminate the funding agreement and transfer the school to another academy trust.<sup>973</sup>

48. Enforcement action in respect of **independent schools** takes a different form. If the standards set out in either the ISS or NMS are not met, then the Secretary of State for Education may require the proprietor of a school to provide an ‘action plan’ setting out the steps that will need to be taken to ensure that the relevant standards are met, and the time when each step will be taken.<sup>974</sup>

49. Ofsted or the ISI provides advice to the Department for Education about the content of any action plan, examines the action plan once it is received and advises as to whether or not it is acceptable. Ofsted or the ISI then undertakes an inspection after a period of time (three to six months) to see whether the action plan has been implemented. The relevant inspectorate then provides advice to the Department for Education. It is only if an action plan is not complied with, is rejected or the standard is not met upon any further inspection that enforcement action can be taken by the Department for Education. This action is limited to:

- imposing a restriction on pupils who can be admitted;
- imposing changes to the premises; and/or

<sup>969</sup> Nick Gibb 25 November 2020 122/21-123/6

<sup>970</sup> Section 496 of the Education Act 1996

<sup>971</sup> Sections 61 and 62 of the Education and Inspections Act 2006

<sup>972</sup> Section 4 of the Academies Act 2010

<sup>973</sup> Section 2A of the Academies Act 2010

<sup>974</sup> Sections 114–118 of the Education and Skills Act 2008

- removing the proprietor from the register.<sup>975</sup>

**50.** An appeal can take place to a tribunal and during that time enforcement action is suspended (this means that unless there is an emergency closure, a school can continue to operate for a number of years while such action is ongoing).<sup>976</sup>

**51.** The Department for Education can also apply to the magistrates' court for an emergency order to remove a school from the register immediately.<sup>977</sup> The order can be made only where it appears that "*a student at the institution in question is suffering or is likely to suffer significant harm*".<sup>978</sup>

**52.** Schools which take overseas students are required to have a licence which is issued by the Home Office (this was called a tier 4 licence and is now known as a student or child student route). Parents who are working overseas for the Ministry of Defence (MoD) or the Foreign, Commonwealth and Development Office (FCDO) receive funding from those departments to enable their children to attend British boarding schools. If schools are judged to be non-compliant with safeguarding standards, this will result in withdrawal of the Home Office licence and also means that the MoD and FCDO will no longer approve such schools for their employees' children. Although not part of the enforcement process, the prospect of independent schools losing their Home Office licences and having funding for MoD or FCDO students suspended or removed is an incentive to ensure the standards are met.<sup>979</sup>

## Charity Commission

**53.** The Charity Commission is the regulator of all charities in England and Wales. Some state-funded schools are charities but they are classified as exempt charities which do not have to register with the Charity Commission.<sup>980</sup> Independent schools which are charities have to be registered with the Charity Commission. The Charity Commission does not record whether any of its registered charities are schools or are involved in the management of educational institutions and therefore could not provide any information on how many schools are run by registered charities.<sup>981</sup> The Department for Education does record which independent schools are also registered charities.<sup>982</sup>

**54.** The Charity Commission issues guidance and advice to all charities about safeguarding<sup>983</sup> and requires trustees to take reasonable steps to ensure that the beneficiaries of the charity (the school pupils) do not come to harm. Failure to safeguard those in their care is a "*serious regulatory concern*".<sup>984</sup>

**55.** Since 2007, charities with income of over £25,000 (this includes independent schools) have been required to report all "*serious incidents*" to the Charity Commission.<sup>985</sup> If the Charity Commission considers that the charity trustees are not adequately discharging

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<sup>975</sup> Sections 114–118 of the [Education and Skills Act 2008](#)

<sup>976</sup> Sections 124–127 of the [Education and Skills Act 2008](#)

<sup>977</sup> Section 120 of the [Education and Skills Act 2008](#)

<sup>978</sup> Section 120(2) of the [Education and Skills Act 2008](#)

<sup>979</sup> [ISI001574\\_058 para 265](#); [Nick Tolchard and Tim Greene 17 November 2020 95/14-101/15](#); [Richard Johnson 27 November 2020 46/13-18, 48/2-7](#)

<sup>980</sup> [CYC000410\\_016 para 43](#)

<sup>981</sup> [CYC000410\\_008-009 paras 25–27](#)

<sup>982</sup> [Part 2 of the Schedule to the Independent Educational Provision in England \(Provision of Information\) and Non-Maintained Special Schools \(England\) Regulations and Independent School Standards \(Amendment\) Regulations 2018](#)

<sup>983</sup> [CYC000408](#); [CYC000405](#)

<sup>984</sup> [CYC000410\\_013 para 40](#)

<sup>985</sup> [CYC000410\\_023-025 paras 63–69](#); [CYC000152](#) for guidance on reporting a serious incident to a charity.

their duties in respect of safeguarding, it can undertake a wide range of regulatory and compliance action, from writing to ask for information about the response of the trustees to the issuing of action plans or initiating a statutory inquiry.<sup>986</sup>

**56.** The Charity Commission is reliant on schools sending it serious incident reports and has “publicly highlighted its concerns that there is under reporting of incidents”.<sup>987</sup>

**57.** The Charity Commission has statutory powers to suspend trustees or employees from the charity, appoint an interim manager to run the affairs of the charity, warn trustees if they have behaved a breach of trust, direct them to act in certain ways and ultimately to disqualify them from holding office and wind up the charity.<sup>988</sup>

## Deficiencies in the enforcement regime

**58.** The ISI does not have any powers of enforcement. Ofsted only has enforcement powers for some residential special schools that are also registered as children’s homes. In all other cases where the inspectorates judge a school to be failing, steps to address the failure can only be taken by the local authority (only for maintained schools) or by the Department for Education (for all schools). Where a school is also a registered charity, the Charity Commission also has enforcement powers.

**59.** The enforcement powers of the Charity Commission (set out above) are no substitute for the Department for Education having sufficient powers because not all independent schools are charities. Also, the Charity Commission’s regulatory focus is far narrower than that of the Department for Education, focussing on the conduct of charities’ trustees and the steps they take to protect a charity and its beneficiaries. The Charity Commission does not inspect safeguarding as such and is reliant on any schools which are registered charities submitting serious incident reports. The Charity Commission recognises that its regulatory role is especially important in relation to charities whose activities are not within the remit of any national regulatory body.<sup>989</sup> The Department for Education is the regulator of all registered schools.

**60.** The Charity Commission undertook two statutory inquiries in relation to safeguarding at Stanbridge Earls School. The first, initiated in 2013, found that the trustees had acted within the range of reasonable decisions open to them at this time.<sup>990</sup> A second statutory inquiry was opened in 2015 and only concluded in 2021. The findings of this second inquiry have not been published by the Charity Commission.

**61.** The Department for Education (DfE) has relatively few enforcement levers in respect of independent schools and its enforcement processes are lengthy. Ms Spielman told us:

*“in some respects, DfE has fewer powers than I think we have in relation to early years, for example, or children’s homes, to act swiftly. I don’t believe it is a satisfactory situation at the moment.”*<sup>991</sup>

<sup>986</sup> CYC000410\_014-021 paras 42–59

<sup>987</sup> CYC000410\_014 para 42

<sup>988</sup> CYC000410\_019-022 paras 58–62

<sup>989</sup> CYC000410\_010 para 29

<sup>990</sup> CYC000395\_004

<sup>991</sup> Amanda Spielman 24 November 2020 69/17-20

**62.** Where a children’s home is failing to meet safeguarding standards, Ofsted has a range of powers, including:

- raising a requirement following or at an inspection or monitoring visit;
- making a recommendation at an inspection or monitoring visit;
- issuing welfare requirement notices and compliance notices;
- suspending registration;
- restricting accommodation;
- cancelling registration;
- imposing or varying conditions of registration; and
- warning letters and cautions.

It also has powers of emergency suspension or cancellation of registration.<sup>992</sup>

**63.** Where an independent school has not met one of the ISS or the NMS, the Department for Education has the more limited powers set out above. After requiring the school to produce an action plan to remedy the failings, the Department for Education can only impose restrictions requiring the school to cease to use any part of the premises, to close part of the operation or to cease to admit any new students or new students of a specific description.<sup>993</sup> The ultimate sanction is de-registering the school, which would mean it had to close, leaving the children on the school roll without any educational provision.

**64.** Taking action under its emergency power to remove a school from the register immediately is a blunt tool. As Ms Kate Dixon, director of school quality and safeguarding at the Department for Education, told us: *“what you cannot do is close one temporarily using those powers, which might be a useful thing for us to be able to do”*.<sup>994</sup> There is no emergency suspension power as there is for children’s homes.

**65.** In November 2020, Baroness Elizabeth Berridge said that the Department for Education was considering whether enforcement powers could be created to support intervention where safeguarding failures arise:

*“I am looking at the speed at which we do enforcement in the department generally and the speed at which we intervene and looking at our processes in terms of both in the academy sector and in the independent sector, and, yes, unfortunately, also, when we get to enforcement in the independent sector, the difference in the regime is that, once we issue the notice, if the school appeals to the First-tier Tribunal, the enforcement notice doesn’t bite in law.”*<sup>995</sup>

It remains to be seen whether this development leads to positive improvement.

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<sup>992</sup> Care Standards Act 2000

<sup>993</sup> Sections 114–117 of the Education and Skills Act 2008

<sup>994</sup> Kate Dixon 11 October 2019 23/15-17

<sup>995</sup> Elizabeth Berridge 25 November 2020 141/11-19

Part I

# Recruitment, barring and teacher misconduct

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# Recruitment, barring and teacher misconduct

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## I.1: Introduction

1. Adults who come into contact with children in schools are subject to a system of checks to prevent those who have been identified as a risk to children from working in schools.
2. There are duties on schools to comply with safer recruitment practices to identify unsuitable candidates and to make referrals to the relevant authorities in appropriate circumstances. Schools must provide sufficient information to teacher misconduct or barring authorities to enable them to make sound assessments of risk.
3. There are limitations in any system of vetting and barring. For example, pre-employment checks can only identify those who have already been assessed as posing a risk to children.
4. This Part considers the current system of safer recruitment in schools in England and Wales and the processes by which teachers and other adults may be barred from working with children if they are assessed as posing a risk. The teacher misconduct regime in England is also examined (teaching staff in Wales are regulated differently and this is considered in Part J).
5. The Inquiry heard evidence of ongoing problems, including poor compliance with safer recruitment and referral responsibilities, as well as barring decisions which lacked the necessary rigour.

## I.2: Safer recruitment

6. The process for ‘vetting’ or checking the credentials of prospective workers in schools is referred to in statutory guidance as safer recruitment. All schools in England and Wales have a legal duty to comply with safer recruitment to ensure that they do not employ an individual who has been prohibited from teaching or from working with children. The purpose is to “*deter and prevent people who are unsuitable to work with children from applying for or securing employment*” in schools.<sup>996</sup> In England, schools’ responsibilities in relation to safer recruitment are set out in part three of *Keeping Children Safe in Education*, the statutory guidance published by the Department for Education.<sup>997</sup> In Wales, the Welsh Government has included safer recruitment information in its statutory guidance, *Keeping Learners Safe*.<sup>998</sup>

### Disclosure and Barring Service checks

7. Barring unsuitable adults from working with children in schools and in other settings in England and Wales is currently the responsibility of the Disclosure and Barring Service (DBS), an executive agency of the Home Office. In England and Wales, the DBS (which replaced

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<sup>996</sup> INQ006502\_047 para 189

<sup>997</sup> INQ006502\_047-080

<sup>998</sup> INQ006522



the Criminal Records Bureau) is responsible for undertaking checks on behalf of employers relating to a person's previous convictions, relevant police information and whether they are prohibited from working in the role applied for, or with children (the barred list). Schools must apply to the DBS for a check of the records relating to prospective employees, volunteers or contractors.

**8.** The type of check depends upon the role applied for. For those working or volunteering with children in schools, enhanced certificates are available which show all spent or unspent convictions or cautions and may include police intelligence or information considered relevant by a chief officer of police.<sup>999</sup> Convictions will be 'filtered' so that a conviction will be removed from a disclosure certificate if it is the individual's sole conviction and at least 11 years have elapsed since the date of conviction (5.5 years if committed as a child),<sup>1000</sup> unless the offence is on the 'no-filter' list<sup>1001</sup> which includes violent and sexual offences and offences against children.

**9.** For teachers and learning support staff and anyone applying to work in 'regulated activity', schools must obtain an enhanced certificate with a barred list check from the DBS. If the work is not within the definition of regulated activity, for example contractors who will not come into contact with children, or supervised volunteers, a barred list check is not available.<sup>1002</sup>

### Box 1. The definition of 'regulated activity'

#### Regulated activity

The legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012.

Regulated activity includes:

- a) teaching, training, instructing, caring for or supervising children if the person is unsupervised, or providing advice or guidance on physical, emotional or educational well-being, or driving a vehicle only for children;
- b) work for a limited range of establishments (known as 'specified places', which include schools and colleges), with the opportunity for contact with children but not including work done by supervised volunteers.

Work under (a) or (b) is regulated activity only if done frequently by the same person, or regularly (once a week or more, or more than three days in a 30-day period).

Some activities are always regulated activities, regardless of frequency or whether they are supervised or not. This includes relevant personal care or health care provided by or under the supervision of a healthcare professional. (Personal care includes helping a child with eating and drinking for reasons of illness or disability or in connection with toileting, washing, bathing and dressing for reasons of age, illness or disability.)

<sup>999</sup> DBS000243\_003-004 para 2.4.3

<sup>1000</sup> DBS000024\_006 paras 4.4.1-4.4.6

<sup>1001</sup> INQ006531

<sup>1002</sup> Susan Young 10 October 2019 194/3

**10.** The definition of regulated activity is complicated and sometimes difficult for employers to apply. Dr Suzanne Smith, executive director of safeguarding at the DBS, said that it is one of the main areas where the DBS receives queries and that it would be helpful if the definition were simplified to make it easier to understand, perhaps by aligning it with the simpler definition for regulated activity with vulnerable adults.<sup>1003</sup> The Independent Schools Inspectorate (ISI) has received many enquiries from schools seeking clarification about whether and what types of checks are required for visitors, contractors and those who attend school on a regular basis but have no contract with the school, such as doctors, speech therapists, refuse collectors or a Member of Parliament or councillor.<sup>1004</sup>

### *Supervised volunteers*

**11.** Many schools rely on volunteers, for example to assist with one-to-one reading, to provide additional learning support, to accompany school trips or to give talks and presentations. Since 2012, supervised volunteers are deemed not to be in regulated activity and therefore a barred list check is not available. An enhanced check for a supervised volunteer may be obtained by schools but is not compulsory.<sup>1005</sup>

**12.** There are a number of issues concerning DBS checks for supervised volunteers.

**12.1.** The Inquiry heard that there may be applicants for supervised volunteer roles who are on the barred list but have a clear enhanced certificate because they have no convictions. These individuals, who pose a risk of harm to children, are permitted to volunteer to work with children in schools, albeit under supervision. Estyn and the National Society for the Prevention of Cruelty to Children (NSPCC) voiced disquiet regarding the lack of barred list checks or mandatory enhanced checks for supervised volunteers.<sup>1006</sup> The DBS was not able to identify how many individuals were on the children's barred list who would have a clear enhanced check, although Ms Susan Young, director of public protection at the Home Office, thought that this would be a diminishing number.<sup>1007</sup> However, information provided by the DBS showed that in one 12-month period, from April 2019 to March 2020, a total of 265 individuals without any criminal record were added to the children's barred list.<sup>1008</sup> In the previous three-year period (2016 to 2019), 359 people were added to the children's barred list who had no criminal convictions, which amounted to 31 percent of referrals.<sup>1009</sup> This indicates that there may be hundreds of adults on the children's barred list who would have a clear enhanced certificate and therefore be able to undertake supervised volunteer roles in schools.

**12.2.** It is unclear whether schools always carry out enhanced checks of supervised volunteers, as these are available but not compulsory.<sup>1010</sup> The DBS stated that there were 21,587 enhanced checks without barred list checks on supervised volunteers in the schools sector in the year 2019 to 2020.<sup>1011</sup> There were 24,360 schools in England

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<sup>1003</sup> Suzanne Smith 25 November 2020 34/24-35/6

<sup>1004</sup> ISI001574\_061-062 paras 284-285

<sup>1005</sup> INQ006502\_060

<sup>1006</sup> NSP000143\_015 para 71; ETN000736\_032 para 200

<sup>1007</sup> Susan Young 10 October 2019 199/1

<sup>1008</sup> DBS000280

<sup>1009</sup> DBS000244

<sup>1010</sup> Suzanne Smith 25 November 2020 30/17-22

<sup>1011</sup> DBS000280

and approximately 1,577 schools in Wales in the school year 2019 to 2020.<sup>1012</sup> As most schools will recruit more than one new supervised volunteer each year, these figures suggest that many, or even most, volunteers are not DBS checked at all.

**12.3.** There is also concern about the level of supervision that supervised volunteers receive in schools. The Department for Education published brief guidance about supervision of volunteers in 2013, which begins with an explanation that “*We start with a presumption of trust and confidence in those who work with children, and the good sense and judgment of their managers*”. The supervision must be “*regular and day to day*” and “*reasonable in all the circumstances to ensure the protection of children*”.<sup>1013</sup> The guidance gives examples of very close supervision but there is no requirement that schools follow that model because the guidance emphasises that schools have flexibility to determine what level of supervision is reasonable. The NSPCC expressed concerns that, while a volunteer technically may be supervised, in practice they may have unsupervised access to children. The NSPCC also observed that even closely supervised frequent contact with children in schools could enable a barred person to establish a relationship of trust with a child, which could be exploited outside the school setting.<sup>1014</sup> Ms Young said that supervision for regulated activity “*operates on an expectation that people with responsibility for safeguarding children will take those professional responsibilities seriously*”.<sup>1015</sup>

**13.** Ms Kate Dixon, director of school quality and safeguarding at the Department for Education, accepted that an individual who was barred from working with children could be a supervised volunteer in a school and that the level of supervision is entirely at the discretion of the decision-maker.<sup>1016</sup> She also confirmed that the approach of a “*presumption of trust and confidence*” in those who work with children, as set out in the Department’s guidance, still stands.<sup>1017</sup>

**14.** Witnesses from the Department for Education and the DBS stated that DBS checks were just one of the safeguarding measures available and schools may place an over-reliance on such checks. Dr Smith was concerned that “*people have a notion that it is valid for a period of time, when, actually, it’s out of date pretty much the day after it’s arrived. It only gives a snapshot at a point of time ... the DBS check is just one in a basket of measures*”.<sup>1018</sup> The DBS emphasised that if the person has not come to the attention of the authorities, they will have a clean certificate.<sup>1019</sup>

### Other recruitment checks

**15.** In addition to DBS checks, schools must check that anyone engaged to undertake unsupervised teaching work or governance and management roles is not prohibited from doing so by a regulatory body.<sup>1020</sup> In England, this means checking with the Teaching Regulation Agency (TRA) through the Department for Education, and in Wales, the Education Workforce Council (EWC).

<sup>1012</sup> INQ006559\_003; WGT000481

<sup>1013</sup> DFE002056\_001 para 3

<sup>1014</sup> Almudena Lara 11 October 2019 96/14-25

<sup>1015</sup> Susan Young 10 October 2019 200/21-23

<sup>1016</sup> Kate Dixon 11 October 2019 12/8-11

<sup>1017</sup> Kate Dixon 11 October 2019 8/8-9

<sup>1018</sup> Suzanne Smith 25 November 2020 35/13-20

<sup>1019</sup> Suzanne Smith 25 November 2020 30/12-16

<sup>1020</sup> INQ006502\_062-065 paras 234–249

**16.** Applicants' professional qualifications must be verified where applicable. Schools must also obtain information about an applicant's employment history and references from their last or current employer. The ISI said that there is considerable confusion about references, because *Keeping Children Safe in Education* is unclear about whether a written reference should be followed up with a telephone reference.<sup>1021</sup> The guidance also expressly states that allegations which have been found to be false, unsubstantiated or malicious must not be included in a reference, even where there have been a series of allegations of a similar nature.<sup>1022</sup>

**17.** Schools in England are obliged to keep a record of pre-appointment checks on a single central record.<sup>1023</sup> There is not a parallel requirement in the Welsh guidance.

**18.** All teaching staff, including learning support workers, in state schools in Wales must be registered with the EWC, which maintains information about qualifications and any findings or sanctions applied. The EWC no longer relies on DBS checks for prospective registrants and instead requires self-declarations of relevant information. Mr Hayden Llewellyn, chief executive of the EWC, said that as soft intelligence was being removed from the DBS certificates and more information was being filtered out by the DBS, "*increasingly, we weren't seeing the value from the DBS process*".<sup>1024</sup> However, schools in Wales must obtain DBS checks before employing any staff engaged in regulated activity.

## Governors and proprietors

**19.** Since 2016, it has been compulsory for schools in England to obtain an enhanced DBS check for governors in maintained, independent, academy and free schools within 21 days of their appointment.<sup>1025</sup> The Children's Commissioner for Wales considers it an anomaly that there is not a parallel requirement for school governors in Wales, where enhanced DBS checks are available for governors but are not compulsory.<sup>1026</sup>

**20.** Proprietors of independent schools, or the chair of a body which is the proprietor, all members of academy trusts (proprietors of academies, including free schools) and the chairs of the governing bodies of non-maintained special schools must have enhanced DBS checks.<sup>1027</sup>

**21.** Any person on the children's barred list is disqualified from being a governor of a maintained school in England or Wales.<sup>1028</sup> However, unless they engage in any of the activities set out in Box 1, governors and proprietors of schools are not in regulated activity and therefore are not eligible for a barred list check.<sup>1029</sup> This means that the current system does not prevent individuals who have been barred from working with children from owning or managing independent schools, and provides no means of checking whether a prospective governor of a maintained school is disqualified by reason of inclusion on the barred list.

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<sup>1021</sup> ISI001574\_062 para 286

<sup>1022</sup> INQ006502\_051 para 205

<sup>1023</sup> INQ006502\_065-067 paras 250-256

<sup>1024</sup> Hayden Llewellyn 24 November 2020 177/6-7

<sup>1025</sup> DFE002073\_209-210 para 920

<sup>1026</sup> CFW000016\_014 para 5.35

<sup>1027</sup> DFE002073\_209-210 para 922

<sup>1028</sup> The School Governance (Constitution) (England) Regulations 2012 schedule 4; The Government of Maintained Schools (Wales) Regulations 2005 schedule 5

<sup>1029</sup> Susan Young 10 October 2019 197/19-198/4

**22.** The Secretary of State has the power to issue prohibition orders under section 128 of the Education and Skills Act 2008, prohibiting unsuitable individuals from the management of independent schools, academies and free schools.<sup>1030</sup> Before an independent school, academy or free school recruits a proprietor, governor or academy trustee, as well as roles on the senior leadership team, checks must be undertaken to ensure that there is no section 128 order preventing that individual from a school management role. However, very few orders have been made. Ms Dixon stated that the Department for Education has used the power to disqualify proprietors between 10 and 20 times since 2008.<sup>1031</sup>

### Issues with safer recruitment practice in schools

**23.** The Inquiry heard a number of examples of schools failing to comply with safer recruitment practice. This included failing to obtain up-to-date criminal record checks or not checking in the correct name (the guidance requires schools to verify the identity of candidates), failing to obtain or follow up on references, or failing to address potential issues of concern properly in interviews with candidates.

#### *Stony Dean School*

**24.** Anthony Bulley was convicted in 2005 of sexual offences against boys at Stony Dean School. His recruitment as a houseparent in 1995 was flawed. There was no preliminary interview and only one reference was obtained.<sup>1032</sup> That reference stated that Bulley's departure from his previous post had been "*slightly spoiled by a child protection issue, which in the end did not amount to anything*".<sup>1033</sup> The same reference made clear that there were concerns about how Bulley "*related to*" children, which had led to him leaving by mutual agreement.<sup>1034</sup> The local authority as Bulley's employer (which had a copy of the reference on file) did not make any further inquiries to follow up on these matters of concern in the reference provided.<sup>1035</sup> The local authority failed to obtain a criminal record check for 'Nigel Bulley' as well as 'Anthony Bulley', after Bulley changed his name during the early part of his employment.<sup>1036</sup> This omission was also not noticed or corrected by the local authority, despite being notified of the name change.<sup>1037</sup>

**25.** In 1998, when he was working at Stony Dean School, Malcolm Stride was arrested on suspicion of sexual offences at a different school where he had worked previously. There was never an investigation of his behaviour at Stony Dean School. While Stride was suspended from the school and on remand for offences for which he subsequently received a sentence of three years and three months' imprisonment, the school and the local authority offered Stride a compromise agreement if he resigned. The agreement would have ensured that in the event of an acquittal, the school would not have undertaken any disciplinary investigation into his behaviour towards children at Stony Dean School and the school would not have referred Stride to the barring authorities.<sup>1038</sup> Stride refused

<sup>1030</sup> Section 128 of the Education and Skills Act 2008

<sup>1031</sup> Kate Dixon 11 October 2019 19/22-25

<sup>1032</sup> INQ000570\_059-060 paras 8.6–8.12; Richard Nash 9 October 2019 92/7-11

<sup>1033</sup> INQ000570\_060 para 8.11; BUC000044\_001

<sup>1034</sup> INQ000570\_060-061 para 8.13

<sup>1035</sup> INQ000570\_061 paras 8.15–8.16

<sup>1036</sup> BUC000048\_004 para 27

<sup>1037</sup> BUC000048\_010-011 paras 80–81; Richard Nash 9 October 2019 93/5-95/23

<sup>1038</sup> Richard Nash 9 October 2019 144/24-146/7

the offer because he maintained he was innocent of the charges. As Mr Richard Nash of Buckinghamshire County Council said, it was “*wholly inappropriate*” for such a settlement to be proposed.<sup>1039</sup>

### *Headlands School*

**26.** Science teacher Steven Edwards was convicted in relation to the sexual abuse of three pupils at Headlands School between 2001 and 2003. He left the school in 2004 to work at a school in a different local authority area. In 2005, when Edwards applied to return to teach at Headlands School, the new headteacher, Dr Stephen Rogers, did not comply with safer recruitment guidance in respect of obtaining references. He failed to obtain any written reference from the school where Edwards was currently working. Dr Rogers thought a telephone reference had been obtained, but he never saw a note of any telephone reference. There are no records of Headlands School making any contact with the school where Edwards was working.<sup>1040</sup> Dr Rogers was made aware of the fact that there had been some concerns in 2003 about Edwards’ relationship with a 14-year-old pupil at Headlands School but he did not see the minutes of the strategy meeting which took place in November 2003. Edwards was asked about the 2003 allegations in his interview but no further documentation or information was obtained regarding the allegations against Edwards prior to offering him the teaching post in 2005.<sup>1041</sup>

**27.** In 2007, Lindsey Collett was employed as a cover supervisor at Headlands School. She provided a Criminal Records Bureau enhanced check in her maiden name of Harrison, which was six months out of date. The school did not obtain an update or a check in her married name, although she had applied for the post in this name.<sup>1042</sup>

## **I.3: The barred list**

**28.** Since at least 1921, the Department for Education has maintained a list of those declared unsuitable to teach, known as ‘List 99’.<sup>1043</sup> The process of barring adults from working with children and the body responsible for maintaining the list of barred adults and sharing information with schools have gone through several changes over the years.

**29.** Since 2012, decisions about barring unsuitable adults from working with children in schools and in other settings in England and Wales have been the responsibility of the DBS. The DBS took over the barring functions of the Independent Safeguarding Authority (ISA). The ISA was created by the Safeguarding Vulnerable Groups Act 2006, which passed into law following the Bichard Inquiry, in response to the murder in Soham of two girls by the caretaker of their primary school. Prior to the ISA, barring decisions were determined by the Secretary of State for Education for inclusion on List 99, and by the Department of Health for inclusion on the ‘PoCA list’ of those barred under the Protection of Children Act 1999 from working with children. Anyone who was placed on the PoCA barred list was automatically added to List 99.<sup>1044</sup>

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<sup>1039</sup> Richard Nash 9 October 2019 144/1-23

<sup>1040</sup> Stephen Rogers 19 November 2020 57/20-59/4

<sup>1041</sup> INQ005532\_014-015 para 73

<sup>1042</sup> Stephen Rogers 19 November 2020 72/9-17

<sup>1043</sup> DFE002073\_193 para 850

<sup>1044</sup> DBS000024\_002 para 1.8



**30.** The scheme for barring and disclosure set out by the Safeguarding Vulnerable Groups Act 2006 was amended considerably by the Protection of Freedoms Act 2012. The stated aim of the Protection of Freedoms Act 2012 was to “scale ... back to common sense levels” the criminal records and vetting and barring regime.<sup>1045</sup> It redefined ‘regulated activity’, in particular by excluding supervised volunteers from the definition, thereby reducing from nine million to five million the number of people who would require barred list checks before they could come into contact with children in schools.<sup>1046</sup> The Protection of Freedoms Act 2012 also repealed provisions of the Safeguarding Vulnerable Groups Act 2006 which had provided a system of monitoring people on the barred list.<sup>1047</sup>

### Disclosure and Barring Service: barring

**31.** Dr Smith gave evidence to the Inquiry regarding the operation of the DBS and the process by which an individual may be barred from working with children. She said that the current barring processes are structured and rigorous, with a formalised, published framework and guidance for decision-makers.<sup>1048</sup> Barring decisions are based on findings made on the balance of probabilities (not the higher criminal standard of ‘beyond reasonable doubt’).<sup>1049</sup> The DBS has specific statutory powers to obtain and share relevant information with other bodies and organisations, such as the referring school, the local authority, the TRA and the police.<sup>1050</sup>

**32.** Dr Smith explained there are three routes to barring:

- criminal conviction or caution for a relevant offence results in automatic inclusion on the barred list (an ‘autobar’), either with or without the right of the convicted person to make representations;
- referrals from organisations, such as schools, that have a legal duty to make referrals to the DBS (individuals may also make referrals to the DBS where they have concerns that a person poses a risk to children); or
- disclosure information – where an individual has applied for an enhanced certificate with a barred list check, the DBS will consider whether their criminal history indicates they should be included on the barred list.<sup>1051</sup>

**33.** There are two categories of autobar offences. The most serious offences such as rape of a child or sexual offences where the victim is a child under 13 will result in the convicted person being barred, irrespective of whether they work in regulated activity, with no right to make representations to the DBS. For other offences, including abuse of trust offences, sexual offences where the victim is a child over 13, voyeurism and indecent images of children, the convicted person has a right to make representations to the DBS.<sup>1052</sup>

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<sup>1045</sup> HOM003302\_005 para 19; Protection of Freedoms Act 2012

<sup>1046</sup> Suzanne Smith 25 November 2020 31/21-32/10

<sup>1047</sup> Sections 24–27 of the Safeguarding Vulnerable Groups Act 2006 – these provisions of the Act had not come into force before they were repealed by the Protection of Freedoms Act 2012

<sup>1048</sup> DBS000279\_003-005, 006-010 paras 4.1–4.8, 6.6–6.24; DBS000023

<sup>1049</sup> DBS000023\_028 para 4.16

<sup>1050</sup> DBS000279\_012 para 7.9

<sup>1051</sup> DBS000279\_002 para 3.3–3.6; Suzanne Smith 25 November 2020 4/2-7/7

<sup>1052</sup> Suzanne Smith 25 November 2020 5/1-19



**34.** Except for those convicted of an autobar offence without the right to make representations, an individual will not be included on the barred list unless the DBS believes that he or she has worked, is working or may in the future work in regulated activity.<sup>1053</sup>

**35.** There is no power for the DBS to bar provisionally. While the decision is being made by the DBS, the individual is still free to work with children.<sup>1054</sup> Previous barring processes included the power to add a person to the barred list as an interim measure, pending the final decision being made. It is surprising that the current system does not include interim barring orders, given the significant risk that a referred person may pose to children. A power to make an interim barring order must have built-in safeguards, including a right to make representations.

**36.** Altogether, including autobar referrals arising on conviction or caution of a relevant offence, the DBS receives about 50,000 referrals a year.<sup>1055</sup> The barring rate is about 30 percent, so approximately 15,000 individuals are barred each year.<sup>1056</sup>

**37.** The DBS has no powers to follow up and monitor whether a barred person is working in regulated activity. Dr Smith said that the DBS would welcome greater access to information to establish the level of risk in terms of whether the person is still working in regulated activity.<sup>1057</sup> The only way the DBS can currently find out is if a barred individual applies to work in a role which is regulated activity and the employer requests an enhanced certificate with a barred list check.<sup>1058</sup>

### Previous barring decisions: List 99

**38.** The Inquiry asked Dr Smith to comment upon two cases decided by the Department for Education prior to the existence of the DBS. In both cases, the employing school referred an individual about whom there were concerns for inclusion on List 99 but the Department for Education decided not to prohibit the referred individuals from working with children.

### RS-F3

**39.** In 2001, the Royal School for the Deaf Manchester dismissed RS-F3 from his senior care role at the school after a disciplinary hearing found an allegation of sexually inappropriate behaviour with children to be substantiated. The hearing found that RS-F3 regularly showered naked with children and young people at the school and assisted them in their intimate personal care, even when he had been requested not to do so by a parent because it distressed her son. RS-F3 had also failed to report bruising on another child in his care.<sup>1059</sup>

**40.** At a strategy meeting convened in 2001 by the local authority, the unanimous view of the school, the police, the NSPCC and the local authority was that RS-F3 was unsuitable to work with children.<sup>1060</sup>

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<sup>1053</sup> DBS000279\_004 para 4.3

<sup>1054</sup> Suzanne Smith 25 November 2020 10/24-11/1

<sup>1055</sup> Suzanne Smith 10 October 2019 221/24-25

<sup>1056</sup> Suzanne Smith 10 October 2019 215/16; The DBS implements a quality assurance process which means that 10 percent of all barring cases are reviewed before closing (Suzanne Smith 10 October 2019 221/3-10).

<sup>1057</sup> Suzanne Smith 10 October 2019 209/11-23

<sup>1058</sup> Suzanne Smith 10 October 2019 210/17-22

<sup>1059</sup> SST000083\_017 para 15.12

<sup>1060</sup> SST000062\_002 para 4

- 41.** The school made a referral to the Department of Health, which provisionally placed RS-F3 on the children’s barred list (the PoCA list). The Department of Health then passed the case to the Department for Education and Skills to consider whether to include RS-F3 on List 99.<sup>1061</sup>
- 42.** Further information was provided to the Department for Education and Skills by Greater Manchester Police, confirming that in 2002 a former pupil had alleged that RS-F3 had masturbated him at the school in 1973. The police explained that their investigation did not result in the charge or prosecution of RS-F3 but that they took the view that the circumstances of his dismissal indicated that RS-F3 should be excluded from future work with children.<sup>1062</sup>
- 43.** The Department for Education and Skills did not request any further detail or information from the police. It invited RS-F3 to make representations. RS-F3 asserted matters which contradicted the information that the school had provided.<sup>1063</sup> The Department for Education and Skills did not ask for any further evidence or information from the school and accepted the representations made by RS-F3, deciding not to include him on List 99. In the light of the decision of the Department for Education and Skills not to bar RS-F3, the Department of Health did not confirm his provisional inclusion on the PoCA barred list.
- 44.** The decision not to bar RS-F3 was communicated to the school, which immediately expressed its concern that the Department for Education and Skills had taken a different view to the Department of Health regarding the risk posed by RS-F3. Ms Jolanta McCall, chief executive and principal of the Seashell Trust which runs the Royal School Manchester, stated her view that RS-F3 should have been placed on both lists as he was “*very unsuitable*” to work with children. The Department for Education and Skills acknowledged this correspondence but took no further action.<sup>1064</sup>
- 45.** Dr Smith considered that if the DBS was taking the decision today it would obtain further information before reaching a decision as to whether RS-F3 posed a risk to children.<sup>1065</sup> She explained that “*The defensibility of a barring decision relies upon sufficient information to be able to make robust and clear findings*”.<sup>1066</sup>
- 46.** The DBS has specific powers to obtain further information from the referring school, the local authority and the police.<sup>1067</sup> In assessing any evidence gathered by the police, the DBS will make its own findings as to the risk of harm, on the balance of probabilities.<sup>1068</sup> Dr Smith also said that when, as in RS-F3’s case, representations were made which contradicted the facts asserted in the school’s referral, the DBS would request further information from the referring organisation.

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<sup>1061</sup> SST000083\_018-019 paras 15.20–15.21

<sup>1062</sup> DBS000091

<sup>1063</sup> Jolanta McCall 10 October 2019 183/10-14

<sup>1064</sup> SST000083\_019 paras 15.24–15.25

<sup>1065</sup> Suzanne Smith 25 November 2020 20/15-22

<sup>1066</sup> DBS000279\_011 para 7.6

<sup>1067</sup> DBS000279\_012 para 7.9

<sup>1068</sup> Suzanne Smith 25 November 2020 20/19-21/9

## RS-F71

47. In 2003, RS-F71 resigned from the independent school where he had been teaching, having admitted to the headteacher that he had engaged in sexual intercourse a year previously with a 17-year-old pupil at her home. There was no disciplinary hearing and the headteacher did not refer the matter to the police or the local authority but did refer it to the Department for Education and Skills.<sup>1069</sup>
48. The Teacher Misconduct Unit at the Department for Education and Skills invited RS-F71 to make representations at an interview, where the caseworker discussed with RS-F71 the fact that his admitted conduct amounted to a criminal offence of engaging in sexual activity with a child in abuse of a position of trust.<sup>1070</sup>
49. The caseworker at the Department for Education and Skills recommended that the Secretary of State should not bar RS-F71, stating that the mitigating features put forward by RS-F71 were “*very strong*”.<sup>1071</sup> These included the claim of RS-F71 that the sexual activity had been instigated by the pupil and that she did not appear to have been negatively impacted by it; that he was unsure of boundaries in a boarding school context as he had moved from the state sector; that he had been experiencing difficulties in his relationship with his girlfriend; that he had “*learnt his lesson*”; and that he was a competent teacher.<sup>1072</sup>
50. Dr Smith said that if this case were referred to the DBS now, a detailed assessment of the potential risk of harm posed by RS-F71 would be undertaken, which would be highly likely to result in RS-F71 being placed on the barred list. She considered that the representations put forward by RS-F71 in 2004 did not address the concerns raised by his actions in having sexual intercourse with a pupil. Dr Smith also explained that the referred person’s competence as a teacher would play no role in a current DBS analysis of risk because “*the value in having a competent teacher in a school cannot outweigh the need to safeguard children from sexual harm*”.<sup>1073</sup>
51. The Department for Education and Skills had no guidelines as to what criteria to use when considering whether to include a person on List 99.<sup>1074</sup>

## Duty of schools to refer to the Disclosure and Barring Service

52. Maintained schools have had a duty since at least 1959 to refer to the barring authority teachers who were dismissed due to misconduct or resigned in circumstances where they would have been dismissed.<sup>1075</sup> This duty was extended to independent schools by regulations made in 1982.<sup>1076</sup> Schools also have a responsibility to refer teaching staff who have engaged in misconduct to the relevant regulatory body (ie the TRA or EWC).
53. The duty of schools to refer to the DBS is now set out in the Safeguarding Vulnerable Groups Act 2006. Whenever a member of staff has been dismissed or removed from working in regulated activity (or would have been removed, but resigned or retired) and the school believes that the staff member harmed a child or put a child at risk of harm, or has

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<sup>1069</sup> DBS000279\_005-010 paras 6.1–6.25

<sup>1070</sup> DBS000264\_003 para 48 (Section 3 of the Sexual Offences (Amendment) Act 2000 was in force).

<sup>1071</sup> DBS000250\_005

<sup>1072</sup> DBS000250\_007

<sup>1073</sup> Suzanne Smith 25 November 2020 17/16-24

<sup>1074</sup> Jolanta McCall 10 October 2019 181/7-9

<sup>1075</sup> DFE002073\_194 para 858

<sup>1076</sup> DFE002073\_196 para 864

received a caution or conviction for a relevant offence, the school must notify and provide information to the DBS, which will then decide whether the person should be placed on the barred list.<sup>1077</sup>

**54.** Dr Smith said that the DBS does not receive the number of notifications from schools that they would expect but that it is impossible for the DBS to know when organisations under a duty to refer fail to do so.<sup>1078</sup> It is an offence for a person under a duty to notify the DBS to fail to do so without reasonable excuse but there has not been a single prosecution for this offence.<sup>1079</sup>

**55.** The DBS also receives referrals from the police, local authorities and other organisations and regulatory bodies, including referrals of teachers from the TRA,<sup>1080</sup> with which there is regular liaison and mutual information-sharing.<sup>1081</sup> The DBS has statutory powers to obtain information relevant to barring decisions from a number of other organisations, including the police, schools and local authorities.<sup>1082</sup>

**56.** Dr Smith said that if the DBS received information in a referral which indicated poor safeguarding practice within a school, the DBS would share the information with the relevant bodies, such as the Office for Standards in Education, Children's Services and Skills (Ofsted).<sup>1083</sup>

**57.** When the DBS receives a referral which appears to involve the commissioning of a criminal offence that had not been notified to the police, the DBS has statutory powers to make a referral to the relevant police force, which they have used in some cases.<sup>1084</sup>

**58.** Once a school refers an individual to the DBS, it is not usually entitled to know the outcome of the referral. Only an organisation with a 'legitimate interest' is notified of a specific barring decision. A referring school is not considered to have a 'legitimate interest' where the individual has ceased to be employed at the school (for example, following dismissal or resignation). Dr Smith considered that it would not be desirable for the referring school to have an automatic right of reply because this would have implications for confidentiality and would lengthen the decision-making process.<sup>1085</sup>

## I.4: Teacher misconduct in England

### Teaching Regulation Agency

**59.** Teachers in England are regulated by the Teaching Regulation Agency (TRA). Teachers and other workers in the education sector in Wales are registered and regulated by the Education Workforce Council (EWC), which is discussed in Part J.

<sup>1077</sup> DBS000279\_002-003

<sup>1078</sup> Suzanne Smith 10 October 2019 214/1-3

<sup>1079</sup> Suzanne Smith 25 November 2020 7/17-18

<sup>1080</sup> Suzanne Smith 10 October 2019 214/11-18

<sup>1081</sup> Suzanne Smith 25 November 2020 9/17-23; TRA000004\_005-006 paras 17-18

<sup>1082</sup> DBS000279\_003 para 3.11

<sup>1083</sup> Suzanne Smith 25 November 2020 11/15-23

<sup>1084</sup> Section 50A of the Safeguarding Vulnerable Groups Act 2006; Suzanne Smith 25 November 2020 15/6-10

<sup>1085</sup> Suzanne Smith 25 November 2020 26/3-4

**60.** The TRA has the power to prohibit a teacher who has engaged in serious misconduct from undertaking teaching work. It is an executive agency of the Department for Education and came into operation in April 2018, taking over from its predecessors: the National College for Teaching and Leadership (NCTL) (2013 to 2018); the Teaching Agency (2012 to 2013); and the General Teaching Council for England (GTCE) (2000 to 2012).<sup>1086</sup>

**61.** The GTCE maintained a register of qualified teachers. GTCE registration was required to teach in maintained schools but not in independent schools. The GTCE had a range of sanctions for dealing with misconduct and incompetence, including prohibition, temporary suspension of registration and conditions upon teaching practice. The GTCE's jurisdiction was limited to registered teachers.<sup>1087</sup>

**62.** The TRA does not operate a registration system but keeps a database of qualified teachers and a list of those who have been prohibited from teaching. The TRA regulates all those engaged in 'unsupervised teaching work' in any schools in England, regardless of qualification status.<sup>1088</sup> Online teaching or tutoring is not covered by the TRA.<sup>1089</sup>

**63.** The definition of teaching work does not include teaching assistants, cover supervisors and other learning support staff who are under the direction and supervision of the classroom teacher, according to the chief executive of the TRA, Mr Alan Meyrick.<sup>1090</sup> Lindsey Collett was not referred to the GTCE by the headteacher of Headlands School in 2008 because she was a cover supervisor and not deemed to be engaged in 'teaching work', although she was sometimes working alone and not directly supervised with RS-A301. However, the Inquiry encountered confusion within the Department for Education regarding the extent of the TRA's jurisdiction. Nick Gibb MP, then Minister for School Standards, believed that the TRA would deal with serious misconduct by teaching assistants and learning support assistants in schools.<sup>1091</sup> Some higher level teaching assistants may come under the misconduct jurisdiction of the TRA, depending on the nature of their responsibilities and whether their work is supervised.<sup>1092</sup>

**64.** The TRA only hears allegations of serious misconduct which potentially merits lifetime prohibition. No other sanctions are available. Lesser forms of misconduct and incompetence are to be dealt with at local level by employers and governors.<sup>1093</sup> The purpose of a prohibition order is "to protect pupils and to maintain public confidence in the profession" and should be imposed only where it is an "appropriate and proportionate measure", not simply in order to be punitive.<sup>1094</sup> The TRA may impose an interim prohibition order while the case is being investigated if it appears that there would be a serious risk to pupils and the public should the individual continue to teach unsupervised.<sup>1095</sup>

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<sup>1086</sup> TRA000003\_001-002 paras 1-15

<sup>1087</sup> TRA000004\_014-015 paras 49-51

<sup>1088</sup> TRA000003\_005 para 29

<sup>1089</sup> Alan Meyrick 24 November 2020 173/9-12

<sup>1090</sup> TRA000003\_003 para 20; Alan Meyrick 24 November 2020 149/10-18

<sup>1091</sup> Nick Gibb 25 November 2020 162/14-18

<sup>1092</sup> INQ006545

<sup>1093</sup> TRA000003\_001 paras 4 and 5

<sup>1094</sup> TRA000003\_016 para 76

<sup>1095</sup> TRA000003\_009 para 44(b)

**65.** In England, a ‘relevant employer’ (which includes local authorities in the case of maintained schools and proprietors of independent schools) has a legal duty to make a referral to the Secretary of State in respect of a teacher who has been dismissed as a result of serious misconduct or would have been dismissed had the teacher not resigned.<sup>1096</sup>

**66.** The TRA categorises its cases by behaviour types. Safeguarding concerns are not a category recorded by the TRA. During the period April 2019 to March 2020, approximately 39 percent of the 300 cases referred to a professional conduct panel of the TRA related to “*breach of boundaries/trust*” and 11 percent related to “*sexual misconduct*”.<sup>1097</sup> Child sexual abuse by a teacher and related misconduct would fall into these categories. However, sexual misconduct may not always involve a child, while breach of boundaries is a wide category of inappropriate behaviours which may not necessarily relate to potential child sexual abuse.

**67.** The current system relies on schools making a correct assessment of the threshold for referral. Mr Meyrick stated that the TRA has encountered referrals where the misconduct alleged was not serious enough for prohibition to be considered. It seems likely that some schools may incorrectly assess misconduct as being insufficiently serious to merit consideration by the TRA. Asked about reliance on local systems working correctly, Mr Meyrick said that he believed that “*teachers who need to be prohibited are prohibited by the system*”.<sup>1098</sup>

**68.** It is the responsibility of schools to ensure that, where there are allegations of teacher misconduct which are not eligible for referral to the TRA, a disciplinary process takes place to establish whether the allegation can be substantiated on the evidence available. The resignation, retirement or lack of cooperation of the staff member will not prevent the disciplinary procedure from reaching a conclusion where there is evidence for it to do so.<sup>1099</sup> The Inquiry heard of several cases where the school did not undertake any disciplinary process after a staff member resigned, despite the statutory guidance.<sup>1100</sup> This is concerning because allegations which have been substantiated through a disciplinary process must be included on a reference.

## Previously decided cases of teacher misconduct

**69.** The Inquiry asked Mr Meyrick to comment on some previously decided cases of teacher misconduct arising from incidents of child sexual abuse in the schools examined in this investigation, and in particular to comment upon how similar cases would be dealt with under the current teacher misconduct process.

### *Christopher Hood*

**70.** The former headteacher of Hillside First School, Mr Christopher Hood, failed to refer safeguarding concerns about Nigel Leat to the local authority.<sup>1101</sup> After Leat’s conviction for a number of sexual offences against girls in his class, Mr Hood was referred to the NCTL for gross incompetence in respect of these safeguarding failures. During the course of the case, the NCTL was replaced by the TRA. The TRA continued with the case and, after hearing evidence, made a prohibition order.

<sup>1096</sup> TRA000003\_005-006 para 32

<sup>1097</sup> TRA000004\_003-005 paras 11–14

<sup>1098</sup> Alan Meyrick 24 November 2020 145/12-13

<sup>1099</sup> INQ006502\_092-093 paras 391–396

<sup>1100</sup> Clifton College (Mark Moore, also RS-F82) and The Purcell School for Young Musicians (RS-F20).

<sup>1101</sup> DFE003202



**71.** Mr Meyrick said that a case such as Mr Hood’s would still be heard by the TRA because the incompetence was so serious as to amount to serious misconduct.<sup>1102</sup>

**72.** When asked whether there was a risk that serious professional incompetence is not referred to the TRA, Mr Meyrick said that he did not believe there was cause for concern because the referral guidance is clear.<sup>1103</sup> The TRA guidance *Teacher misconduct: the prohibition of teachers* states that one of the “key features” of the regulatory system is that only serious misconduct meriting prohibition should be referred to the TRA and that “Other matters, including all cases of incompetence, should be dealt with locally”.<sup>1104</sup> The guidance has been updated since the Phase 2 hearings to include a failure to act on evidence that a child’s welfare may have been at risk and failure in their duty of care towards a child as examples of behaviour so serious as to potentially merit prohibition.<sup>1105</sup> However, the guidance continues to state in its introduction that all incompetence is to be dealt with locally, which would deter referrals by schools.<sup>1106</sup>

### RS-F71

**73.** The case of RS-F71, referred to above, was decided by the Teacher Misconduct Unit of the Department for Education and Skills in 2004 as a List 99 case. At that point, the GTCE was responsible for allegations of misconduct by registered teachers. RS-F71 was registered as he had previously taught at a state school. It is not clear why the Department for Education and Skills did not refer the case to the GTCE.

**74.** Mr Meyrick said that if the same case were referred now, it was “almost certain” that the TRA would consider the case to be sufficiently serious as to be placed before a professional conduct panel for a hearing.<sup>1107</sup> At the hearing, the professional conduct panel would decide whether the accepted conduct in having sexual intercourse with a pupil amounted to unacceptable professional conduct, and the representations of the teacher would be considered. Mr Meyrick accepted that the mitigating features advanced by RS-F71 did not bear analysis.<sup>1108</sup>

### Mark Moore

**75.** Mark Moore resigned as headteacher of Clifton College at the end of 2015. The school had a number of concerns regarding Mr Moore’s handling of safeguarding issues relating to Jonathan Thomson-Glover, a housemaster who was convicted of child sexual abuse. Clifton College did not conduct any disciplinary proceedings in relation to Mr Moore but referred these concerns to the NCTL in August 2017.<sup>1109</sup> Upon receipt of the referral, the NCTL invited Mr Moore to submit his representations. The determination panel of the NCTL decided that there was no case to answer and so the case did not proceed to a professional conduct panel to hear all the evidence and make a decision on prohibition.<sup>1110</sup>

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<sup>1102</sup> Alan Meyrick 24 November 2020 141/6-142/20

<sup>1103</sup> Alan Meyrick 24 November 2020 143/6-17

<sup>1104</sup> DFE001874\_005

<sup>1105</sup> INQ006583\_014

<sup>1106</sup> INQ006583\_005

<sup>1107</sup> Alan Meyrick 24 November 2020 158/2-3

<sup>1108</sup> Alan Meyrick 24 November 2020 158/23-159/5

<sup>1109</sup> TRA000004\_019 para 67

<sup>1110</sup> DFE003245



**76.** It was unclear whether the NCTL determination panel considered that there was insufficient evidence to support the allegations against Mr Moore or that the allegations taken at their highest were not sufficiently serious to merit prohibition.<sup>1111</sup> Mr Meyrick considered that the determination panel “*probably gave too much weight*” to Mr Moore’s account of events when those matters should properly have been left to be determined by a professional conduct panel.<sup>1112</sup> Mr Meyrick said that determination panels now operate differently and that decision-makers have more training, so that he was “*confident*” that under the new process a similar case would proceed to a professional conduct panel to hear all the evidence and reach a decision on the appropriate action to take.<sup>1113</sup>

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<sup>1111</sup> TRA000004\_022 para 76

<sup>1112</sup> Alan Meyrick 24 November 2020 165/3-6

<sup>1113</sup> Alan Meyrick 24 November 2020 165/1-166/9



Part J

# Wales

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# Wales

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## J.1: Introduction

1. Education law in England and Wales was unified until devolution in 1998.<sup>1114</sup> Since then, the legislative function and oversight of the education system has moved gradually to be the responsibility of the Welsh Assembly. Since 2011, the Welsh Government has had exclusive responsibility for all aspects of education in Wales.<sup>1115</sup>

2. The 12 schools examined in detail in this investigation were not in Wales. However, the investigation gathered evidence on the response of Welsh institutions to safeguarding concerns which arose in 2019 and 2020 at Ruthin School, an independent day and boarding school, Ruthin School in Denbighshire North Wales, in 2019 and 2020.

3. At the end of June 2021, the Everyone's Invited website had received allegations of sexual assault and harassment in 93 Welsh schools.<sup>1116</sup> In June 2021, the Welsh Government commissioned Estyn (the Welsh inspectorate of schools) to carry out a review of sexual abuse in schools and colleges in Wales. The Children's Commissioner for Wales, Professor Sally Holland, stated:

*"Whilst I would welcome Estyn's expertise in gathering more information about this, we already know that this is an issue here in Wales. I've been hearing harrowing experiences from children and young people for years – which we've dealt with as individual cases – and I wouldn't want to delay taking action on this now by having to wait for a review."*<sup>1117</sup>

Estyn visited 35 schools and spoke to approximately 1,300 pupils in September and October 2021.<sup>1118</sup> Its report, published in December 2021, found around half of all pupils had personally experienced peer-on-peer sexual harassment and three quarters of all pupils reported seeing other pupils experiencing this, and that generally pupils did not report these incidents to teachers.<sup>1119</sup>

4. This Part focusses on the ability of institutions in Wales to address safeguarding concerns in the independent sector. It also considers broader issues of reporting concerns and allegations, leadership and governance, training and awareness-raising, and teacher misconduct, which apply to both the independent sector and state-funded sector in Wales. As there is some overlap between the statutory frameworks in England and Wales, certain aspects of the thematic parts of the report are also relevant to Wales, in particular Part F (leadership and governance) and Part E in respect of consistency of approach by LADOs.

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<sup>1114</sup> And the implementation of the Government of Wales Act 1998

<sup>1115</sup> WGT000476\_002 para 13; DFE0002073\_016 paras 57–59; Albert Heaney 26 November 2020 5/21-6/15

<sup>1116</sup> INQ006535

<sup>1117</sup> INQ006536\_003

<sup>1118</sup> INQ006611\_005

<sup>1119</sup> INQ006611\_010

## J.2: Safeguarding at Ruthin School

5. Ruthin School is an independent day and boarding school for around 350 girls and boys in Denbighshire, North Wales.

6. Between 2010 and February 2020, the principal of Ruthin School was Mr Toby Belfield. Members of the council of management (COM), as charity trustees of Ruthin School Charity, were responsible for the overall control and management of the school. Ms Julie Oldbury was chair of the COM between September 2011 and February 2020.

7. In April 2019, a referral to Denbighshire County Council from Child and Adolescent Mental Health Services (CAMHS) raised concerns about the content of messages between Mr Belfield and a 15-year-old female pupil, RS-A343, via text and on social media.<sup>1120</sup> The messages from Mr Belfield included references to her physical appearance and that of other girls and young women.<sup>1121</sup>

8. Denbighshire County Council began an inquiry under section 47 of the Children Act 1989 and the All Wales Child Protection Procedures (a Part IV investigation).<sup>1122</sup> In May 2019, it recommended that Mr Belfield be suspended and that Ruthin School commission an independent investigation into his actions. Ms Oldbury indicated in June 2019 that the investigation would be undertaken by a member of the COM. Denbighshire County Council and other institutions were concerned that this would not be independent.<sup>1123</sup>

9. The COM then decided to commission an independent investigation into Mr Belfield's conduct and appointed CMS Investigations, "*a professional Investigation company that provides specialist operatives for corporate and legal clients throughout the UK*".<sup>1124</sup> The CMS Investigations report, submitted to the COM in August 2019, concluded that the evidence did not suggest that Mr Belfield had harmed a child or presented a risk of harm, or that he would be unsuitable to work with children. It did find that there was a disciplinary case to answer for serious misconduct for inappropriate use of social media with pupils of the school, the inappropriate content of some of the messages and potential damage to the reputation of Ruthin School.<sup>1125</sup> A disciplinary hearing took place in early September 2019 and the COM issued Mr Belfield with a final written warning. His suspension was lifted the following day and he returned to his role as principal.

10. A redacted copy of the CMS Investigations report was provided to Denbighshire County Council in October 2019 and shared with Estyn. As it contained new information, Denbighshire County Council convened a multi-agency steering group in November 2019 to discuss concerns relating to Mr Belfield and Ms Oldbury. Estyn and the Care Inspectorate Wales carried out a joint inspection in November 2019, after which Mr Belfield was again suspended.<sup>1126</sup> The COM agreed to undertake a work-based risk assessment for Mr Belfield

<sup>1120</sup> ETN000759\_010 para 38. Concern was also expressed about decisions made by Mr Belfield about RS-A343's medical treatment.

<sup>1121</sup> CFW000015\_003 para 2.1.2

<sup>1122</sup> WGT000473\_002 para 8

<sup>1123</sup> INQ005973\_007 paras 43 and 45

<sup>1124</sup> INQ006533

<sup>1125</sup> INQ005973\_009 para 63

<sup>1126</sup> DEN000034\_004-005 para 5

and, following a verbal summary from the independent consultant who undertook that assessment, the COM dismissed Mr Belfield in February 2020 with immediate effect.<sup>1127</sup> Ms Oldbury resigned from the COM in February 2020.<sup>1128</sup>

### J.3: Reporting concerns and allegations

**11.** Statutory guidance – *Keeping Learners Safe* – sets out the duty to report safeguarding concerns and allegations in schools in Wales. There is separate guidance in Wales – *Safeguarding children in education: handling allegations of abuse against teachers and other staff* (Circular 09/2014) – to deal with the situation where an allegation is made against those teaching or volunteering in schools.<sup>1129</sup> Circular 09/2014 applies to both state-funded and independent schools in Wales. Paragraph 4.1 of Circular 09/2014 states that allegations should be brought immediately to the attention of the headteacher or principal, or the chair of governors if the allegation is against the headteacher or principal, as was the case at Ruthin School.

**12.** It emerged after Mr Belfield’s suspension that a number of members of staff at Ruthin School had been uneasy about his habit of using social media to contact pupils but did not feel able to speak out due to his control over the school, including over the members of the COM. Staff therefore felt unable to follow the statutory guidance and report the principal to the chair of the COM.<sup>1130</sup>

**13.** Her Majesty’s Chief Inspector for Education and Training in Wales, Mr Meilyr Rowlands, said that staff informed Estyn inspectors after Mr Belfield had been dismissed that he had cameras strategically placed around the school and their emails had been monitored during inspections.<sup>1131</sup> This was reflected in the report of the Estyn visit in November 2019, which found that “*staff indicate reluctance to use the school’s recording system to report safeguarding issues*”.<sup>1132</sup>

**14.** Denbighshire County Council also identified that, despite a number of safeguarding concerns about the school that resulted in multidisciplinary meetings in 2018 and 2019, those referrals all came via other agencies rather than the school.<sup>1133</sup> The school was under an obligation to inform the local authority of such allegations.

**15.** Once Denbighshire County Council was notified by CAMHS in April 2019, the designated officer for safeguarding (LADO) convened a meeting. The role of the LADO where allegations are made about an individual working or volunteering in a school is set out in Circular 09/2014.<sup>1134</sup>

**16.** The guidance in Wales also states that there should be a discussion between the LADO and the school if after “*the statutory authorities have completed their consideration of the allegation the matter is referred back to the governing body to complete the staff disciplinary process*”.<sup>1135</sup> It states that, in some cases, an independent investigation may be necessary. An independent investigation is mandatory in maintained schools in Wales where “*a teacher*

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<sup>1127</sup> ETN000759\_015 para 66

<sup>1128</sup> WGT000473\_005 para 28 (XI)

<sup>1129</sup> INQ006524

<sup>1130</sup> WGT000473\_008 para 32 (X); Meilyr Rowlands 26 November 2020 167/13-22; INQ004967\_009

<sup>1131</sup> Meilyr Rowlands 26 November 2020 167/13-19

<sup>1132</sup> INQ004968\_003

<sup>1133</sup> DEN000034\_007 para 7; Vicky Poole 26 November 2020 151/9-14, 168/1-9

<sup>1134</sup> INQ006524\_008

<sup>1135</sup> INQ006524\_011 paras 8.6–8.7

*employed under a contract of employment at a school has abused a pupil registered at the same school*".<sup>1136</sup> It is not mandatory in independent schools. While it was never suggested that the headteacher of Ruthin School had abused a pupil, the statutory authorities were of the view that independent investigation should take place. This was eventually done, despite the COM initially suggesting that the investigation should be led by a governor. The local authority noted that if an independent school refused to carry out an independent investigation there was no action they could take to compel the governing body to do so.<sup>1137</sup>

## Duty to report

**17.** Section 130 of the Social Services and Well-being (Wales) Act 2014, which came into force in April 2016, places a duty on “*relevant partners*” who have reasonable cause to believe that a child is at risk of abuse, neglect or other kinds of harm to refer the matter to the local authority. Relevant partners include the police, other local authorities, providers of probation services, local health boards, NHS trusts and youth offending teams.<sup>1138</sup>

**18.** *Keeping Learners Safe* sets out the section 130 duty as it relates to teachers and others employed in a school.<sup>1139</sup> Anyone working in an educational setting and employed by the local authority must report to the local authority when there is reasonable cause to believe that a child is at risk. This applies to most teachers in Wales who are employed in schools maintained by the local authority.

**19.** The duty under section 130 does not, however, apply to teachers employed in independent schools. Teachers who are not employed by the local authority should take account of the Wales safeguarding procedures, which state that the duty to report should be considered as “*effective practice*”.<sup>1140</sup> The preface to *Keeping Learners Safe* states:

*“Throughout this guidance the terms **must**, **should** and **effective practice** are used. The term **must** is used when there is a statutory duty to meet the requirement. The word **should** is used when the advice set out should be followed unless there is good reason not to. The term **effective practice** is used where it is considered the education setting ought to follow the advice, but there is no requirement to do so”.*<sup>1141</sup> (Emphasis in original)

Independent teachers in Wales are therefore not currently under a duty to report cases of suspected abuse to the local authority. Mr Albert Heaney, chief social care officer for the Welsh Government, said that this was under review.<sup>1142</sup>

**20.** There is currently no sanction in the 2014 Act for a failure to report. The Welsh Government is reviewing this but considers that failing to comply with the duty would raise issues of fitness to practice which could be dealt with by the Education Workforce Council (EWC).<sup>1143</sup> However, the EWC has regulatory jurisdiction only in respect of registered education workers and independent school teachers are not currently required to register with the EWC (see Part J.7).

<sup>1136</sup> INQ006524\_012 para 10.2

<sup>1137</sup> DEN000034\_005 para 6

<sup>1138</sup> Section 130 of the Social Services and Well-being (Wales) Act 2014; Section 162 of the Social Services and Well-being (Wales) Act 2014

<sup>1139</sup> INQ006375\_030 para 3.33

<sup>1140</sup> INQ006375\_031 para 3.34

<sup>1141</sup> INQ006375\_005

<sup>1142</sup> Albert Heaney 26 November 2020 12/22-13/6

<sup>1143</sup> Albert Heaney 26 November 2020 8/18-23



## J.4: Leadership and governance

**21.** At Ruthin School in 2019 and 2020, there were failings of both leadership and governance in relation to safeguarding. As Professor Holland told the Inquiry:

*“Unfortunately, in this school, we seem to have had coming together both – you know, the controlling behaviour of the headteacher and disregard for safeguarding practices plus a council of management that was not in a position – didn’t have the procedures or the practice to challenge that. So we had neither of those in the school, and that’s where things seem to have really fallen through”.*<sup>1144</sup>

**22.** The COM of the school, whose role it was to challenge the principal and hold him to account, was ineffective:

*“The Ruthin case has highlighted how weak governance arrangements can contribute to the development of a culture and practice that places children and young people at risk. From evidence seen by my office the Council of Management at Ruthin was largely ineffective in exercising any form of scrutiny in respect of [the Principal and the Chair of the COM]”.*<sup>1145</sup>

**23.** In November 2019, Estyn concluded that the COM was not fulfilling its duty to safeguard pupils. It had not undertaken its monitoring and challenging role in a sufficiently robust manner. The Ruthin School handbook was criticised for not defining the role of the principal precisely, so that it was not clear how he would be held to account and what he could and could not do.<sup>1146</sup> The Care Inspectorate Wales also issued a report in November 2019 which found that “some staff did not always feel supported, morale was low and they felt undermined and vulnerable by the lack of effective oversight by the COM”.<sup>1147</sup>

**24.** Ms Jassa Scott, strategic director for Estyn, said that since 2010 Estyn had continued to strengthen its focus on the role of leaders and managers in safeguarding. In 2012, Estyn introduced a safeguarding self-evaluation form which a provider must complete before an inspection. The aim was to emphasise, as part of the inspection process, “the importance of safeguarding and the need for leaders and managers in a school to take ownership of it and to take it seriously”.<sup>1148</sup> Despite this focus, Estyn’s scheduled visit to Ruthin School in February 2019 found no concerns about the leadership or governance of the school.<sup>1149</sup>

**25.** A complete change of governance and management can often solve problems of safeguarding when they arise because the governance and management is the problem in the first place.<sup>1150</sup> The evidence of the Welsh institutions was that the new principal and chair of the COM had effected a real change in safeguarding at Ruthin School.<sup>1151</sup>

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<sup>1144</sup> Sally Holland 26 November 2020 166/4-11

<sup>1145</sup> CFW000015\_011 para 10.6

<sup>1146</sup> INQ004968\_004-005

<sup>1147</sup> INQ004967\_003 para 1

<sup>1148</sup> Jassa Scott 26 November 2020 52/16-53/1

<sup>1149</sup> INQ004965\_003

<sup>1150</sup> Meilyr Rowlands 26 November 2020 163/11-16

<sup>1151</sup> Sally Holland 26 November 2020 163/20-164/13

## J.5: Training and awareness-raising

### Training

**26.** *Keeping Learners Safe* contains detailed guidance about training for school staff and governors. Safeguarding training is mandatory for the designated safeguarding person (DSP) and for school staff.<sup>1152</sup> While there is a clear expectation in the guidance that governors should have safeguarding training, this is not mandatory.<sup>1153</sup> Headteachers are not required to have specific safeguarding training beyond that which is required as a member of staff, despite the fact that the guidance mandates a specific role for the headteacher in dealing with allegations of abuse against staff.

**27.** Local authorities are required to maintain a record of all DSPs and designated governors for safeguarding within schools in their area, as well as the training they have undertaken and the dates on which training was undertaken.<sup>1154</sup>

**28.** Proprietors and governing bodies of independent schools should ensure that the DSP, the designated governor and the chair of governors undertake training in inter-agency working that is provided by or to standards agreed by the Safeguarding Children's Board, as well as refresher training to keep their knowledge and skills up to date, in addition to basic safeguarding training.<sup>1155</sup>

**29.** Representatives from both Estyn and the Care Inspectorate Wales, as well as Professor Holland, endorsed mandatory training for governors in both maintained and independent schools.<sup>1156</sup> These institutions also considered that the content of the training should be specified and subject to quality control.

**30.** A May 2018 Care Inspectorate Wales report was critical of safeguarding at Ruthin School, identifying 15 recommendations to improve the service, including that:

*"The Principal and members of the council of management, must undergo safeguarding training which demonstrates they have the skills, knowledge and expertise to fulfil their roles and responsibilities".<sup>1157</sup>*

Care Inspectorate Wales said that the school was not receptive to its concerns. As a result of "quite a lot of pushback" from the school, it included a greater level of detail about its concerns in its published inspection report because it was not confident that its verbal feedback was being taken on board by the school, and it wanted to make sure that its concerns were recorded.<sup>1158</sup>

**31.** All members of the COM at Ruthin School did subsequently undertake NSPCC level 1 training. Ms Oldbury, Mr Belfield and another member of the COM undertook level 3 safeguarding training.<sup>1159</sup>

<sup>1152</sup> INQ006522\_022\_026 paras 2.33 and 3.8

<sup>1153</sup> INQ006522\_019 para 2.11

<sup>1154</sup> INQ006522\_016-017 para 2.5

<sup>1155</sup> INQ006522\_018 para 2.8

<sup>1156</sup> CIW000048\_007-008 para 34; CFW000016\_013 para 5.28; ETN000736\_031 para 194

<sup>1157</sup> INQ004966\_004

<sup>1158</sup> Vicky Poole 26 November 2020 108/9-22; CIW000054\_001; INQ004966\_010-012

<sup>1159</sup> INQ005973\_003 para 17

## Awareness-raising with pupils

**32.** Schools in Wales are expected to plan and deliver sex and relationships education (SRE) within the personal and social education (PSE) framework, in accordance with 2010 Welsh Government guidance.<sup>1160</sup> In 2017, Estyn identified that there was a wide variation in the quality and quantity of sex and relationships education in schools, with insufficient time or importance allocated to it.<sup>1161</sup>

**33.** Professor Holland found that when she visited children in schools, they told her that their current sex education was poor and ill-informed, and focussed primarily on the physical and health elements rather than wider considerations around consent, healthy relationships, issues such as coercive control, and topics such as sexuality and gender.<sup>1162</sup> She felt that relationships and sexuality education (RSE) had been failing children and young people, and emphasised that it:

*“is a crucial step in safeguarding young people from sexual abuse and abusive relationships. Young people do not always know how to protect themselves and how to recognise and report abuse unless they are given this information in school”.*<sup>1163</sup>

**34.** A report of a 2018 expert panel, *The Future of the Sex and Relationships Curriculum in Wales*, set out that there were significant training needs across the education profession to enable teachers to deliver effective education in this area.<sup>1164</sup>

**35.** Draft guidance was published for consultation in February 2019. The Welsh Government received feedback suggesting that the statutory guidance needed to be more detailed given the sensitive and specialist nature of the subject area.<sup>1165</sup> Professor Holland commented that the draft guidance was inadequate in terms of providing guidance for children with additional learning needs. She said that the draft guidance only had five sentences describing how to adapt a whole-school approach to RSE for children and young people with additional learning needs, which was *“nowhere near enough to equip professionals with sufficient guidance to ensure all children and young people have contextually and developmentally appropriate education”*.<sup>1166</sup>

**36.** The Welsh Government is developing a new curriculum in Wales, due to be introduced from 2022. RSE will be a statutory element of the new curriculum for learners aged 3 to 16 years old, and the Welsh Government intends (with the support of the Children’s Commissioner for Wales) to discontinue the right of parents to withdraw children from RSE.<sup>1167</sup>

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<sup>1160</sup> ETN000736\_026 para 156

<sup>1161</sup> ETN000736\_026 paras 156–161

<sup>1162</sup> CFW000016\_019 para 8.2

<sup>1163</sup> CFW000016\_020 paras 8.7–8.8

<sup>1164</sup> CFW000016\_013 para 5.30

<sup>1165</sup> WGT000476\_039-040 paras 218–223

<sup>1166</sup> CFW000016\_017-018 para 5.56

<sup>1167</sup> CFW000016\_013 para 5.30

## J.6: Inspection and enforcement

**37.** Estyn is responsible for the inspection of the quality and standards of education and training in all schools in Wales. The Independent Schools Inspectorate does not inspect schools in Wales and there is no Welsh equivalent.

**38.** The Care Inspectorate Wales inspects the residential aspects of all boarding schools and those residential special schools where pupils are accommodated for fewer than 295 days in a year. It also registers, regulates and inspects residential special schools where pupils are accommodated for more than 295 days.<sup>1168</sup>

**39.** Both Estyn and the Care Inspectorate Wales agreed that:

*“Inspection is one part of a whole system about keeping children safe. But it isn’t the only thing that can give assurance. And inspection by its nature is episodic and can never guarantee children’s safety.”<sup>1169</sup>*

**40.** Both Estyn and the Care Inspectorate Wales accepted that inspections prior to November 2019 had failed to identify substantial safeguarding failings at Ruthin School. Mr Rowlands said that previous Estyn inspections had not been focussed on safeguarding and therefore only a day of inspector time would have been spent on safeguarding, whereas in November 2019 the inspection focussed on specific safeguarding concerns.<sup>1170</sup> Ms Vicky Poole, Deputy Chief Inspector of the Care Inspectorate Wales, also pointed to the benefits of a focussed inspection:

*“where we have got concerns ... we can then focus our inspection around those concerns and ... the inspection is much more in-depth around a narrower area, whereas a scheduled inspection is a broad look across everything”.<sup>1171</sup>*

### Maintained schools and independent schools in Wales

**41.** There are a number of issues with the current inspection and monitoring regime which apply to both maintained schools and independent schools.

#### *National minimum standards*

**42.** There are two different sets of national minimum standards (NMS): one for boarding schools and one for residential special schools.<sup>1172</sup> In Wales, the NMS have not been updated since their introduction in 2003. The Care Inspectorate Wales considered that they were outdated and not aligned to current models of education, care or support.

**43.** Regarding the NMS for boarding schools, Ms Poole said that:

*“2003 was a long time ago and our expectations about the rights of children and safeguarding have moved on and changed. I think they are out of date and they do need to be reviewed and improved.”<sup>1173</sup>*

**44.** Part D considers the NMS for residential special schools in England and in Wales.

<sup>1168</sup> CIW000048\_006

<sup>1169</sup> Vicky Poole 26 November 2020 158/20-24

<sup>1170</sup> Meilyr Rowlands 26 November 2020 154/9-15

<sup>1171</sup> Vicky Poole 26 November 2020 158/8-13

<sup>1172</sup> CIW000005; CIW000004

<sup>1173</sup> Vicky Poole 26 November 2020 61/14-18

### *Notification of serious incidents*

**45.** Estyn stated that its inspection role was undermined by not always being aware of the history of safeguarding issues within a school:

*“as far as Estyn is aware, there are no duties placed on anyone to report safeguarding matters to Estyn, at any stage, including prior to inspection. This is the case for both maintained and independent schools.”*<sup>1174</sup>

**46.** Both Estyn and the Care Inspectorate Wales suggested that it would improve their work if schools were required to inform them about serious safeguarding incidents. Currently, only services that the Care Inspectorate Wales regulates (that is, residential special schools in which pupils are accommodated for more than 295 days a year) are required to notify it about serious incidents. For residential special schools where children are accommodated for fewer than 295 days a year, the NMS stipulate that serious incidents should be referred to the local authority and the Care Inspectorate Wales should be notified of the outcome of any child protection enquiries. Ms Poole told the Inquiry that this was not sufficiently robust and that the Care Inspectorate Wales was often reliant on the relationship it had with the local authorities for information.<sup>1175</sup>

**47.** Mr Heaney indicated that the Welsh Government intended to require schools to notify Estyn and the Care Inspectorate Wales (where there is a residential component) about serious incidents.<sup>1176</sup>

**48.** The Care Inspectorate Wales also said that, for those services it regulates, it has the power to require information from the provider but it has no such power for boarding schools and residential schools where the pupils are accommodated for fewer than 295 days. In its view, such a power would be useful for all school settings. It would have been useful in respect of Ruthin School as the Care Inspectorate Wales could have asked for an unredacted copy of the CMS Investigations report prior to its inspection in November 2019.<sup>1177</sup>

### *Information-sharing*

**49.** Both the Care Inspectorate Wales and Estyn considered that information-sharing across all bodies involved in safeguarding children in Wales needed to be strengthened. Mr Rowlands said that local authorities had most of the information that Estyn would find useful as part of the inspection process but that information-sharing was:

*“ad hoc and patchy, depending on sort of personal relationships that have been built up with particular local authorities, and some local authorities wouldn’t do that as a matter of principle”.*<sup>1178</sup>

**50.** Estyn was also discussing information-sharing with the EWC about teachers who might be undergoing investigation.<sup>1179</sup>

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<sup>1174</sup> ETN000736\_023 para 135

<sup>1175</sup> Vicky Poole 26 November 2020 73/7-13

<sup>1176</sup> Albert Heaney 26 November 2020 27/19-28/1

<sup>1177</sup> Vicky Poole 26 November 2020 138/22-139/2

<sup>1178</sup> Meilyr Rowlands 26 November 2020 69/22-70/1

<sup>1179</sup> Hayden Llewellyn 24 November 2020 154/14-21

**51.** Ms Scott said that Estyn would like to be included in the list of organisations that should be considered for inviting to any professional strategy meeting that takes place in relation to staff at independent schools.

### *Length of inspection cycles and time spent on site*

**52.** Mr Rowlands gave evidence that cuts in funding had an impact on Estyn’s ability to carry out effective inspections in Wales.<sup>1180</sup> He said that 10 years of cuts had meant that inspection teams were smaller, less time was spent in schools and inspections were happening less frequently. Mr Rowlands felt that the longer inspection cycles, coupled with the lack of information coming from schools and other sources which might trigger an earlier inspection if there was a problem, were a safeguarding issue.<sup>1181</sup>

**53.** This was particularly an issue with independent schools because they did not have the same oversight from local authorities. Mr Rowlands felt that Estyn had a good feel for culture in the independent special school sector because these schools are inspected every year but in the mainstream independent schools Estyn is only visiting every six or seven years.<sup>1182</sup>

**54.** Ms Scott said that typically during a core inspection at an independent school a team of four to six inspectors is on site for three days, and approximately one day of inspector time (out of a maximum of 18 days of inspector time) is spent specifically on safeguarding: checking records and talking with staff and governors.<sup>1183</sup> Additional time will be spent talking with staff and pupils about broader issues like training which can include safeguarding issues.

**55.** Mr Rowlands’ suggestion was that, if more resources were available, Estyn could treat boarding schools more like residential special schools and inspect them more frequently. There are only five such schools in Wales, so the resources required would be small.<sup>1184</sup>

**56.** The Welsh Government accepted that under current inspection arrangements there can be long periods of time between inspections. It considers that there is a:

*“need for more real time intelligence in the education system to give regular assurances to parents and other stakeholders ... about the standards being achieved and priorities for further improvement”.*

The proposal from the Welsh Government was that Estyn should inspect schools twice within an inspection cycle and *“have a stronger focus on a school’s capacity to self-evaluate and self-improve”*.<sup>1185</sup>

### *Notice periods for inspections*

**57.** Ruthin School had scheduled (announced) inspections by Estyn in January 2008, March 2014 and February 2019. It was also subject to unannounced, focussed visits in May 2018 and November 2019. The scheduled inspections found the school to be good or excellent

<sup>1180</sup> ETN000736\_005 paras 28–29

<sup>1181</sup> Meilyr Rowlands 26 November 2020 75/17-25

<sup>1182</sup> Meilyr Rowlands 26 November 2020 76/7-12

<sup>1183</sup> Jassa Scott 26 November 2020 54/15-55/15

<sup>1184</sup> Meilyr Rowlands 26 November 2020 76/20-25

<sup>1185</sup> WGT000476\_021 paras 129–130

in all areas. It was held to be meeting all the Independent School Standards (ISS).<sup>1186</sup> The unannounced focussed visits found problems with safeguarding and training both in 2018 and 2019 and the school was judged not to be meeting the ISS.

**58.** The Care Inspectorate Wales's scheduled inspections of residential special schools are unannounced, as they are treated in the same way as care homes. Boarding schools are given four weeks' notice of an inspection by the Care Inspectorate Wales. The Care Inspectorate Wales stated that it had trialled unannounced inspections in boarding schools. This had not worked because when they arrived to carry out an inspection key people were not available and records were not ready, so it had reverted to announced inspections.<sup>1187</sup>

**59.** The Welsh Government statement suggested that the difference between the Estyn core inspection report in February 2019, which found the school good or outstanding in all respects, and the outcome of the November 2019 focussed visit, which found serious safeguarding problems, was that the second visit was unannounced so the inspectorate:

*"was able to see the school as it was being run. This was in contrast to Estyn's visit to the school in February 2019 which was a core inspection with the usual 4 week notice period when schools will take steps to prepare for the inspection."*<sup>1188</sup>

Estyn said that core inspections of maintained schools are required by law to include a parents' meeting and the logistics of organising this mean that schools need around three weeks' notice of inspection.<sup>1189</sup> In England, Ofsted give less than one day's notice<sup>1190</sup> and the ISI gives a maximum of two days' notice of routine inspection visits.<sup>1191</sup>

**60.** It is likely that the substantive difference between the February 2019 Estyn inspection and the November 2019 Estyn inspection was the amount of information the inspectorate had about safeguarding concerns at Ruthin School.

## Independent schools

### *Independent School Standards*

**61.** The Welsh Government is responsible for the Independent School Standards (Wales) Regulations 2003, which provide the Independent School Standards (ISS) against which Estyn inspects independent schools in Wales.<sup>1192</sup> The ISS in Wales have not been amended since 2003. The ISS are also the means by which enforcement action can be taken against an independent school. Failure to meet one or more of the ISS is a trigger for enforcement action by the Welsh Government. Not having adequate ISS means that opportunities to intervene by way of enforcement action are more limited.

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<sup>1186</sup> Standards in The Independent School Standards (Wales) Regulations 2003, made under the Education Act 2002

<sup>1187</sup> Vicky Poole 26 November 2020 83/14-19

<sup>1188</sup> WGT000473\_016 paras 77-79. In fact the standard notice period for an Estyn inspection in February 2019 was three weeks.

<sup>1189</sup> ETN000736\_016 para 93

<sup>1190</sup> DFE002073\_042 para 167

<sup>1191</sup> ISI001574\_020 para 96

<sup>1192</sup> The Independent School Standards (Wales) Regulations 2003; Estyn inspects standards 1-4, 6 and 7 and the Care Inspectorate Wales inspects standard 5.



**62.** Mr Rowlands considered that the ISS “*should generally be updated*” as soon as possible.<sup>1193</sup> He said that Estyn tries to mitigate gaps in the ISS by also inspecting independent schools against its Common Inspection Framework (CIF). However, an independent school which meets the ISS but performs poorly on aspects of the CIF could not be the subject of enforcement action by the Welsh Government.

**63.** In Mr Rowlands’ view, section 94 of the Education and Skills Act 2008 which requires the Secretary of State to prescribe standards relating to the quality of leadership in, and the management of, independent schools (Standard 8 of the ISS for England) would be a helpful addition to the regulations in Wales.<sup>1194</sup>

**64.** Standard 8 of the ISS for England is met if the proprietor ensures that persons with leadership and management responsibilities at the school:

- demonstrate good skills and knowledge appropriate to their role, so that the ISS are met consistently;
- fulfil their responsibilities effectively, so that the ISS are met consistently; and
- actively promote the well-being of pupils.

Accountability for these three aspects is placed firmly with the proprietor and senior leaders.

**65.** Mr Rowlands noted that the safeguarding concerns at Ruthin School centred on allegations about the principal’s behaviour and the response of the COM to the allegations. He felt that the absence of Standard 8 in Wales meant that the Welsh Government had fewer drivers in place to ensure that proprietors, governors and leaders take a more active role in fulfilling their responsibilities to promote the well-being of pupils.<sup>1195</sup>

**66.** The Welsh Government stated during the Inquiry’s public hearings in November 2020 that it was committed to ensuring the review of the ISS and that this was “*on the front*” of the agenda.<sup>1196</sup> In October 2021, the Welsh Government described schools and stakeholders in the independent schools sector “*being given further opportunity to engage and contribute to the development of new legislation which [it hopes] to bring into force in 2023*”.<sup>1197</sup>

## Enforcement

**67.** The Welsh Government is the regulator for both maintained and independent schools in Wales. However, whereas the local authority has powers to intervene when concerns are raised about a maintained school, only the Welsh Government has enforcement powers in respect of independent schools.<sup>1198</sup> The trigger for intervention and enforcement is that the school has failed to meet one or more of the standards in either the ISS or the NMS. In such circumstances, the Welsh Government can ask for an action plan designed to ensure that the school makes changes in order to meet the relevant standards. If sufficient action is not taken, then the Welsh Government’s only other enforcement tool is to remove the school from the register so that it cannot operate.

<sup>1193</sup> Meilyr Rowlands 26 November 2020 50/1-2

<sup>1194</sup> ETN000736\_009 paras 52–55

<sup>1195</sup> ETN000736\_009 para 54

<sup>1196</sup> Albert Heaney 26 November 2020 33/20-37/16

<sup>1197</sup> WGT000488\_005-006

<sup>1198</sup> A local authority can intervene by changing the composition of the governing body. Any establishment wishing to operate as an independent school must apply to the Welsh Ministers for registration in accordance with section 160 of the Education Act 2002. It is an offence under section 159 of the Act for any person to conduct an independent school which is not registered.

**68.** The Welsh Government stated that it had required 53 schools to provide action plans in the last five years. Between 2010 and 2020, no independent school had been deregistered.<sup>1199</sup>

**69.** The safeguarding concerns at Ruthin School highlighted the fact that the Welsh Government has limited options in terms of enforcement. In 2018, the school was in breach of a number of the NMS and appeared to lack an understanding of some of the basic principles of safeguarding, yet the only tool available to the Welsh Government was to ask the school to draw up an action plan which could be evaluated by the relevant inspectorate.<sup>1200</sup> When challenged on the limited effectiveness of requiring an action plan, Mr Chris Jones, deputy director for Support for Learners for the Welsh Government, accepted that the lack of enforcement options was a weakness in the current system:

*“we have nothing in between an action plan and deregistration. So it’s a very draconian measure against a school.”<sup>1201</sup>*

**70.** When the school conducted an investigation into the behaviour of Toby Belfield in the autumn term of 2019, the Welsh Government requested an unredacted copy of the report but was given a “heavily redacted” copy. It had no powers to insist that it receive an unredacted report, despite being the regulator.<sup>1202</sup>

**71.** The Welsh Government accepted that having limited levers for enforcement is a weakness in the current system and said that it was committed to making changes in this area.<sup>1203</sup>

**72.** On behalf of Estyn, Mr Rowlands suggested that some of the levers that a local authority has in respect of maintained schools in Wales should be in place for the Welsh Government to take enforcement action against an independent school.<sup>1204</sup>

**73.** The Care Inspectorate Wales also gave evidence that it had:

*“concerns about the collective ability of Estyn, CIW [Care Inspectorate Wales] and the Welsh Government to drive improvement in a timely way in services where the inspectorates are not the regulator. This is not about taking prompt action but also about the range of enforcement powers available and about having appropriate legislation against which the registrar can take enforcement action. Our view is that there is a gap in the current architecture of regulations, which means no one body has the complete range of levers to compel a school to address failings.”<sup>1205</sup>*

**74.** The Children’s Commissioner for Wales, Professor Holland, held a meeting in November 2019 with the key institutions to discuss the safeguarding issues at Ruthin School. She described being surprised at “how powerless all these very powerful people really felt in this case”<sup>1206</sup> and noted that the Ruthin case “really highlighted the gaps in the regulation” of independent schools. She was:

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<sup>1199</sup> Albert Heaney 26 November 2020 40/16-25; WGT000476\_036 para 210

<sup>1200</sup> INQ004966\_010-012; ETN000761\_003

<sup>1201</sup> Chris Jones 26 November 2020 111/25-112/3

<sup>1202</sup> Chris Jones 26 November 2020 139/8-9

<sup>1203</sup> Chris Jones 26 November 2020 113/2-17

<sup>1204</sup> Meilyr Rowlands 26 November 2020 113/23-114/8

<sup>1205</sup> CIW000048\_021 para 111

<sup>1206</sup> Sally Holland 26 November 2020 119/6-7

*“strongly in favour of the regulations being strengthened so that interim steps could be taken, such as bringing in an improvement board on a temporary basis, or, indeed, appointing new members to a governing body or a board of trustees”.*<sup>1207</sup>

## J.7: Teacher misconduct

**75.** The vetting and barring functions of the Disclosure and Barring Service apply across both England and Wales and are considered in Part I of this report.

**76.** In Wales, the EWC is an independent regulator which was created in 2015, taking over the regulatory functions of the General Teaching Council of Wales (GTCW), which was established in 2000.<sup>1208</sup> It operates a registration system, so that those working in the maintained school sector, including teachers and school learning support staff, must be registered with the EWC. The chief executive of the EWC, Mr Hayden Llewellyn, said that there are now more learning support staff in schools in Wales than teachers.<sup>1209</sup> Teachers, headteachers and learning support workers in independent schools in Wales do not have to register with the EWC.<sup>1210</sup> Individuals who are registered must abide by a code of conduct written and maintained by the EWC, which also hears cases of misconduct and professional incompetence in the education sector.<sup>1211</sup>

**77.** Only registered education staff may be referred to the EWC in relation to misconduct. The EWC therefore had no jurisdiction to take action in respect of the principal of Ruthin School when he was dismissed by the school in February 2020. The EWC has raised the issue with the Welsh Government over a number of years.<sup>1212</sup> Mr Llewellyn told the Inquiry:

*“we believe it is an anomaly. Our view is, it shouldn't matter where a learner is educated, whether it is in the maintained sector or the private sector, they still need to be secure and safeguarded.”*<sup>1213</sup>

**78.** Professor Holland said that it was “*disappointing*” that the Welsh Government had not taken action sooner to ensure that teachers at independent schools were required to register with the EWC.<sup>1214</sup> She described it as a gap that had been known about for many years. There had been a review by the Welsh Government in late 2016 and early 2017 which had concluded that independent school teachers should register with the EWC, but there had been a change of government at that point and the issue was not addressed and had gone to the “*bottom of the pile*”.<sup>1215</sup> Professor Holland instituted a review into the decision to drop the reform to the EWC and other gaps in the safeguarding framework for independent schools in Wales. The report was published in February 2021 and concluded that “*the current Welsh Government has failed to respond adequately to ... the safeguarding concerns related to independent schools that they reviewed between 2014–16*”.<sup>1216</sup> The Welsh Government has

<sup>1207</sup> Sally Holland 26 November 2020 119/5-19

<sup>1208</sup> EWC000001\_001 para 4

<sup>1209</sup> Hayden Llewellyn 24 November 2020 151/2-5

<sup>1210</sup> Hayden Llewellyn 24 November 2020 152/1-4

<sup>1211</sup> Hayden Llewellyn 24 November 2020 135/2-15

<sup>1212</sup> Hayden Llewellyn 24 November 2020 152/10-12

<sup>1213</sup> Hayden Llewellyn 24 November 2020 172/18-22

<sup>1214</sup> Sally Holland 26 November 2020 120/4

<sup>1215</sup> Sally Holland 26 November 2020 120/4-15

<sup>1216</sup> INQ006537\_007

stated that “Subject to consultation and further policy development, the current proposal is that legislation to require independent school staff to register with the EWC will come into force in 2023”.<sup>1217</sup>

**79.** The EWC regulates all registered teaching staff, including registrants who teach or tutor online. However, private tutors are not required to register, so unregistered online tutors would not fall within the jurisdiction of the EWC.<sup>1218</sup> After leaving Ruthin School, the principal, Mr Belfield, set up an online school.<sup>1219</sup> He would not have been required to register with the EWC to run an online school and none of the teaching staff would have been required to register with the EWC. The school is no longer online.

**80.** Where the EWC hears evidence and makes a finding of misconduct, it has a range of sanctions, including prohibition, suspension from teaching for a fixed period of time and placing conditions on the individual’s teaching practice.<sup>1220</sup> However, Mr Llewellyn said that the EWC has no power to make an interim order prohibiting or suspending a referred individual from work in the education sector while the case is being considered. Mr Llewellyn considered that the lack of interim orders in Wales means that when serious safeguarding information is received from the police, the EWC is unable to act. He also said that this had led to the police sometimes deciding not to provide such information to the EWC, in the knowledge that the EWC had no powers to make immediate interim orders.<sup>1221</sup> Professor Holland was concerned about this situation, stating:

*“a person under police investigation for a serious case can remain on a publically available register as a professional deemed fit and proper to be working with children and young people. This leads to an unacceptable potential for failure in our duties to safeguard children and young people in Wales.”<sup>1222</sup>*

**81.** At the time of the public hearings in November 2020, the EWC was one of the only regulators worldwide that did not have interim order powers. In December 2017, the Welsh Parliament’s Children, Young People and Education Committee published a report following its Teachers’ Professional Learning and Education Inquiry. The report included a recommendation to the Cabinet Secretary for Education that the EWC should be given statutory powers to impose interim suspension orders. The Cabinet Secretary asked the EWC to undertake its own consultation on the issue, which it did between November and December 2018. It concluded that there was overriding support for the EWC to be given such a power. The EWC wrote to the Minister with the outcome of the consultation in February 2019 and was given verbal confirmation that the government would proceed with a public consultation on the issue.<sup>1223</sup> At the time of its written statement to this Inquiry, over a year later, the EWC was still awaiting the public consultation.<sup>1224</sup> Shortly before our Phase 2 public hearings in September 2020, the Welsh Government launched a consultation on whether the EWC should be given the power to issue interim suspensions.<sup>1225</sup> Subsequently, the EWC was given the power to make interim suspension orders from April 2021.<sup>1226</sup>

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<sup>1217</sup> WGT000488\_006 para 26

<sup>1218</sup> EWC000001\_013 para 51

<sup>1219</sup> Sally Holland 26 November 2020 169/1-3

<sup>1220</sup> EWC000001\_005 para 23(f)

<sup>1221</sup> Hayden Llewellyn 24 November 2020 175/7-17

<sup>1222</sup> CFW000015\_011 para 10.8

<sup>1223</sup> EWC000001\_015 para 65

<sup>1224</sup> EWC000001\_013-015

<sup>1225</sup> INQ006532

<sup>1226</sup> The Education Workforce Council (Interim Suspension Orders) (Additional Functions) (Wales) Order 2021

**82.** Any employer of registered staff in schools in Wales is legally required to refer a member of teaching staff to the EWC if the staff member has been dismissed or where the staff member has resigned in circumstances where there was a possibility of dismissal for unacceptable professional conduct or serious professional incompetence.<sup>1227</sup> Between 2014 and 2019, the EWC made 60 prohibition orders in respect of school teachers or learning support workers, of which 27 related to sexual misconduct or breaching boundaries.<sup>1228</sup> The EWC said that in recent years it has “*seen a rise in sexual misconduct/breaching boundaries cases involving social media*”.<sup>1229</sup>

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<sup>1227</sup> EWC000001\_004-005, para 23

<sup>1228</sup> EWC000001\_006

<sup>1229</sup> EWC000001\_009, para 26



Part K

# Conclusions and recommendations

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# Conclusions and recommendations

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## K.1: Conclusions

1. A detailed and complex system for safeguarding children in schools has been developed and refined over the last 20 years. All of its parts have to work together in order to provide overall assurance. In several of the schools examined, multiple parts of the safeguarding system failed, leaving children at risk.
2. This investigation identified some weaknesses in the existing safeguarding system. Sexual abuse can occur in all types of schools, to all ages of children. Schools need to accept that 'it could happen here', and in the case of harmful sexual behaviour between pupils that 'it probably is happening here'. There is no single, simple solution to the problem of child sexual abuse in schools. Our recommendations propose incremental changes across a number of areas which, taken together, should improve the existing systems of protection for children in schools.

### Boarding schools

3. Pupils in boarding schools are vulnerable to both sexual abuse by adults working at the school and harmful sexual behaviour from other children. This is due to the features of the boarding school environment which mean there are greater opportunities for abuse to take place. Some of these features leading to increased risk apply equally to day pupils at boarding schools.
4. Statutory guidance and standards do not currently address the additional risks inherent in boarding settings, including the increased risks of harmful sexual behaviour between children.
5. There is a heightened risk for boarders whose parents are overseas, because they are far away from their families and may experience difficulties in adjusting to a different language and culture. Overseas pupils are required to have an educational guardian in the United Kingdom with whom they can stay at weekends or outside term time. There is no registration or regulation of educational guardians. This lack of regulation means that children may be placed in unsafe environments with adults who pose a risk of harm.

### Residential special schools

6. Pupils in residential special schools are particularly vulnerable due to their highly complex needs and their distance from home. Many of these children have multiple disabilities and they may not communicate verbally. The needs of these children have more in common with those of children in children's homes than in mainstream boarding schools. It is anomalous that some residential special schools should be inspected against national minimum standards (NMS) and some against quality standards.

7. Some residential special schools have developed excellent resources to teach their pupils about appropriate sexual behaviour. However, this is not true of the sector as a whole, and there is a lack of statutory guidance to assist residential special schools and mainstream schools to support pupils with special educational needs and disabilities in matters of safeguarding. Residential special schools need better guidance to help them support pupils and mainstream schools need specialist help adapting their relationships and sex education (RSE) curriculum for pupils with special educational needs and disabilities.
8. Local authorities where residential special schools are located sometimes lack information on these schools and the needs of their pupils, and placing local authorities do not always visit pupils regularly. This means that local authority oversight of the sector is not sufficiently robust.
9. Pupils in residential special schools must be consulted about their well-being, their environment, their concerns and aspirations throughout their time at the school. If the quality standards for children's homes were adopted for all residential special schools, it would go some way to ensuring that pupils in these schools are given more of a voice. Advocacy services, if properly resourced, can assist children with disabilities in understanding grooming and reporting sexual abuse when it happens.
10. The Department for Education's proposals to 'level up' the NMS for residential special schools do not go far enough to promote the welfare of children in residential special schools. Minimum standards, rather than quality standards, are insufficiently aspirational to ensure that the complex needs of these pupils are met.

### Responding to allegations and concerns

11. Many of the schools examined responded inadequately to allegations against their staff. Some school leaders were unaware or ill-informed about the national guidance that was in place at the time and so did not implement it. In some schools, staff were aware of allegations or concerns about colleagues but did not report these concerns. There was widespread reluctance to believe that colleagues could be sexually abusing children and in some cases there was a culture which discouraged reporting.
12. The local authority designated officer for safeguarding (LADO) plays a critical role in helping schools to respond appropriately when allegations are made against staff and volunteers. At present, there is inconsistency in how the designated officers in England and Wales interpret their roles. Some schools receive high-quality, intensive support and guidance, while others do not.

### Leadership and governance

13. Leadership had a significant impact on the effectiveness of safeguarding in the schools examined.
14. There were examples of poor leadership in schools, where headteachers did not understand their safeguarding roles and responsibilities, particularly in relation to taking the lead role in referring allegations against staff. Headteachers who were autocratic or unapproachable discouraged staff, parents or pupils from reporting concerns, and deterred or deflected challenge from governors.

**15.** The evidence indicated that the role of designated safeguarding lead (DSL) can be demanding and time-consuming, particularly in large secondary schools. In some schools, headteachers did not fully support the DSL by according them sufficient time, resources and authority to undertake the role.

**16.** It is permitted for a sole proprietor of an independent school also to be the headteacher and the DSL. If one individual undertakes all three roles, this creates several conflicts of interest, as well as a lack of objectivity and independence.

**17.** The evidence showed that the quality of school governance was variable. Poor safeguarding practice within some schools was compounded by weak governance which failed to identify or address shortcomings.

**18.** Independent schools are not legally required to have a governing body or any form of oversight board. In such schools, an important aspect of safeguarding is missing: scrutiny of and accountability for the operation of safeguarding within the school.

**19.** There are insufficient suitability checks for those wishing to open an independent school in England and Wales.

## **Training and awareness-raising**

### *Training*

**20.** There is insufficient focus on safeguarding in initial teacher training (ITT) and a lack of consistency in the level of safeguarding training across ITT provision. There is no minimum content for the safeguarding component of ITT.

**21.** Currently, statutory guidance in England leaves schools to decide what safeguarding training is appropriate for staff. In Wales, modules are provided by the Welsh Government but these are not compulsory. In England and Wales, there are no national standards for safeguarding training for school staff, including those with specific safeguarding roles, although both sets of statutory guidance do provide some information about the requirements of the DSL role. The absence of a minimum standard leads to an inevitable lack of consistency across schools.

**22.** There are additional safeguarding issues in residential schools and for children with special educational needs and disabilities (SEND). Statutory guidance does not currently require additional safeguarding training for those working in these roles and there are no nationally accredited training modules.

**23.** Governors, trustees and proprietors of independent schools are not required to have any safeguarding training. This is of concern given their responsibilities to oversee safeguarding in their schools.

### *Awareness-raising*

**24.** Relationships and sex education (RSE) has an important role to play in helping children to stay safe by enabling them to identify abusive behaviour. RSE can contribute to preventing harmful sexual behaviour between peers.

**25.** The Department for Education has developed a new RSE curriculum, which became compulsory in all schools in England from September 2020, although the roll-out in schools has been affected by the COVID-19 pandemic. A new RSE curriculum is due to be introduced

in Wales from 2022. The effective delivery of the new curricula will require careful planning and training of RSE teachers if it is to remedy the deficiencies which have been identified in previous RSE provision.

**26.** To date, the education system in England and Wales has not provided good-quality RSE to children with special educational needs and disabilities (SEND). The current guidance which accompanied the introduction of compulsory RSE in 2020 does not have sufficient specific and detailed information for teaching children with SEND. There are no resources provided for teaching RSE to children with SEND in specialist or mainstream settings.

## Inspection and enforcement

### *Inspection*

**27.** It is anomalous that there are two different bodies which inspect safeguarding in schools in England, rather than a single inspectorate as is the case with children's and adult social care provision. This may lead to a lack of consistency. In the absence of a single inspectorate, the two organisations should work together to deliver a more unified approach to the inspection of safeguarding in schools, encompassing all aspects of inspection methodology.

**28.** There is the potential for a fundamental misunderstanding between professionals involved in inspection and the public about the role of inspection in the safeguarding system. The inspectorates assess the effectiveness of a school's safeguarding arrangements at the time of inspection but do not have an investigatory role and cannot provide assurance that a school is safe.

**29.** In many of the schools considered, inspection reports judged the school to have good or compliant safeguarding practices at a time when safeguarding practice at the school was deficient or not compliant.

**30.** In a number of cases, the inspectorates only identified deficiencies in the school's safeguarding arrangements once there had been arrests, multi-agency involvement or specific allegations had emerged.

**31.** The inspectorates are hindered by the lack of information-sharing in the system, from schools, local authorities, the Disclosure and Barring Service (DBS), teacher misconduct authorities and the Department for Education or Welsh Government. Better information-sharing would alert the inspectorates to safeguarding issues in advance of inspections.

**32.** The inspectorates are also reliant on school staff being truthful and open. This investigation has uncovered a number of instances where school leaders did not disclose relevant information to inspectors. Rather than imposing a specific duty to be candid with the inspectorates, improved information-sharing between the relevant bodies would mean that inspectors have the information they need to make inspections focussed and effective.

### *Enforcement*

**33.** Both the Department for Education in England and the Welsh Government in Wales have too few levers to take enforcement action in the event of safeguarding deficiencies in independent schools. There is a lack of effective measures to compel improvement. This is a fundamental weakness which leaves children in failing independent schools inadequately protected.

## Vetting, barring and teacher misconduct

### *Disclosure and Barring Service*

**34.** There are a number of concerns which arise in respect of how DBS checks operate in relation to adults working or volunteering in schools.

- Enhanced certificates are available but are not compulsory for supervised volunteers in England and Wales, and for governors in Wales.
- Supervised volunteers, governors and proprietors of schools are not eligible for barred list checks because they are deemed not to be engaging in 'regulated activity'.
- Statutory guidance – *Keeping Children Safe in Education* (KCSIE) in England and *Keeping Learners Safe* (KLS) in Wales – permits schools to decide how to supervise their volunteers. Some schools may consider that volunteers in some situations do not require close supervision. This could leave children at risk.

### *Safer recruitment*

**35.** In some of the schools examined, there was evidence of schools not complying fully with safer recruitment in obtaining DBS checks and references.

**36.** Prior to 2007, barring decisions were taken by the Department for Education. In some cases decisions were made without gathering all the relevant information or properly assessing the risk posed to children, and too much weight was accorded to the representations of the referred person. Without a structured decision-making process or clear assessment criteria, barring decisions were not robust and, in some cases, appeared to be perverse. Individuals were allowed to continue teaching or working with children in circumstances which would now lead to the DBS placing the person on the children's barred list.

### *Teaching Regulation Agency*

**37.** The Teaching Regulation Agency (TRA) deals with serious teacher misconduct. Although the chief executive of the TRA considered that gross incompetence in respect of safeguarding omissions could be so serious as to amount to serious misconduct, the revised guidance for schools does not make this sufficiently clear. This means that cases of serious incompetence leading to safeguarding failures and risking harm to a child may not be referred to the TRA.

**38.** The TRA only regulates those who are engaged in unsupervised 'teaching work'. The current definition of teaching work excludes all cover supervisors and the vast majority of teaching assistants. As there are now more learning support staff than teachers working in schools in England, staff working in these roles should be regulated by the TRA in the same way as teachers.

## Wales

**39.** There are safeguarding concerns in respect of the independent school sector in Wales. Teachers and teaching assistants in independent schools in Wales do not have to register with the Education Workforce Council (EWC) and are therefore not subject to its misconduct jurisdiction. They are also not required to comply with the duty under section 130 of the Social Services and Well-being (Wales) Act 2014 to report when they have reasonable cause

to believe that a child is at risk of abuse, neglect or other kinds of harm. These distinctions between teaching staff in maintained and independent schools in Wales are an anomaly which should be addressed.

**40.** The Independent School Standards (ISS) and the national minimum standards (NMS) for residential special schools and boarding schools have not been updated since 2003 in Wales. The safeguarding provisions of both the ISS and the NMS are no longer adequate.

## **K.2: Matters to be explored further by the Inquiry**

**41.** The Inquiry will return to a number of issues which emerged during this investigation in its final report, including but not limited to:

- mandatory reporting;
- support for victims and survivors; and
- vetting and barring, including the definition of 'regulated activity'.

## **K.3: Recommendations**

The Chair and Panel make the following recommendations, which arise directly from this investigation.

The Department for Education and the Welsh Government should publish their response to these recommendations, including the timetable involved, within six months of the publication of this report.

### **Recommendation 1: Residential schools**

The Department for Education and the Welsh Government should:

- require all residential special schools to be inspected against the quality standards used to regulate children's homes in England and care homes in Wales;
- reintroduce a duty on boarding schools and residential special schools to inform the relevant inspectorate of allegations of child sexual abuse and other serious incidents, with professional or regulatory consequences for breach of this duty; if the recommendation above is implemented, residential special schools will automatically be subject to this duty; and
- introduce a system of licensing and registration of educational guardians for international students which requires Disclosure and Barring Service and barred list checks to be undertaken.

### **Recommendation 2: Responding to allegations and concerns**

The Department for Education and the Welsh Government should:

- introduce a set of national standards for local authority designated officers in England and Wales to promote consistency; and
- clarify in statutory guidance that the local authority designated officer can be contacted for informal advice as well as when a concern or allegation needs to be referred.

### **Recommendation 3: Governance**

The Department for Education and the Welsh Government should:

- amend the Independent School Standards to include the requirements that there is an effective system of governance, based on three principles of openness to external scrutiny, transparency and honesty within the governance arrangements, and the ability of governors to have difficult conversations both internally and with those providing external scrutiny;
- amend the Independent School Standards to stipulate that the proprietor cannot be the designated safeguarding lead; and
- amend the current system of registration of independent schools to apply the same standards to registrants as those applying to open a free school or early years provision.

### **Recommendation 4: Training and awareness-raising**

The Department for Education and the Welsh Government should:

- set nationally accredited standards and levels of safeguarding training in schools;
- make the highest level of safeguarding training mandatory for headteachers, designated safeguarding leads in England or designated safeguarding persons in Wales, designated safeguarding governors, or the proprietor or head of the proprietorial body; and
- undertake an urgent review in order to improve the provision and effectiveness of relationships, sex and health education (RSHE) for children with special educational needs and disabilities, both for children who are in mainstream settings and for those in special schools.

### **Recommendation 5: Inspection and monitoring**

The Department for Education and the Welsh Government should:

- require schools to inform the relevant inspectorate when they have referred a member of staff to the Disclosure and Barring Service, the Teaching Regulation Agency or the Education Workforce Council; and
- include in the national standards for local authority designated officers a requirement that local authority designated officers should share information on referrals from schools with the relevant inspectorate (see recommendation 2)

### **Recommendation 6: Vetting, barring and teacher misconduct**

The Department for Education should amend the Teachers' Disciplinary (England) Regulations 2012 to bring all teaching assistants, learning support staff and cover supervisors within the misconduct jurisdiction of the Teaching Regulation Agency.

The Department for Education and the Welsh Government should amend *Keeping Children Safe in Education* and *Keeping Learners Safe* to:

- provide more detailed guidance as to the quality, nature and degree of supervision required for supervised volunteers working with children in schools; and



- make clear that Disclosure and Barring Service checks are free of charge for supervised volunteers, and should be obtained wherever practicable.

The Department for Education and the Welsh Government should amend the regulations to provide that inclusion on the children's barred list automatically disqualifies the individual from being a governor or proprietor of any school.

The Home Office should amend the Safeguarding Vulnerable Groups Act 2006 so that proprietors and members of the proprietorial body and governors should be checked against the children's barred list.

### **Recommendation 7: Wales**

The Welsh Government should:

- update the Independent School Standards as a matter of urgency;
- update the national minimum standards for boarding schools as a matter of urgency;
- legislate so that all residential special schools are judged against the quality standards in place for care homes in Wales;
- ensure that all teachers and learning support staff in independent schools in Wales are required to register with the Education Workforce Council; and
- consider extending the duty to report a child at risk of harm in section 130 of the Social Services and Well-being (Wales) Act 2014 to independent school staff.



# Annexes

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# Annex 1

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## Overview of process and evidence obtained by the Inquiry

### 1. Definition of scope

This investigation considers the sexual abuse and exploitation of children in residential schools. Its scope is as follows:

*“1. The Inquiry will investigate the nature and extent of, and institutional responses to, child sexual abuse in residential schools, including schools in the state and independent sectors and schools for children with disabilities and/or special educational needs. The inquiry will incorporate case-specific investigations, a review of information available from published and unpublished reports and reviews, court cases, and investigations, and a consideration of the Inquiry’s own commissioned research.*

*2. In conducting its investigation, the Inquiry will consider the experiences of victims and survivors of child sexual abuse in residential schools, and investigate:*

*2.1. the prevalence of child sexual abuse in residential schools in England and Wales;*

*2.2. the policies and practices adopted by residential schools in relation to safeguarding and child protection, including considerations of school culture, governance, training, recruitment, leadership, reporting and investigation of child sexual abuse, disciplinary procedures, information sharing with outside agencies, and approach to reparations;*

*2.3. the responses of residential schools, law enforcement agencies, prosecuting authorities, and other public authorities or statutory agencies to allegations of sexual abuse in residential schools;*

*2.4. the response of residential schools to suspected abusers, including:*

- a) the use of disciplinary procedures;*
- b) the use of compromise agreements;*
- c) references provided to subsequent employers of suspected abusers;*
- d) subsequent employment of suspected abusers by other schools or institutions in England and Wales and abroad.*

*2.5. the extent to which residential schools sought to investigate, learn lessons, implement changes, and/or provide support and reparations to victims and survivors, in response to:*

- a) allegations of child sexual abuse by individuals associated with the school;*
- b) criminal investigations and prosecutions and/or civil litigation in relation to alleged abuse by individuals associated with the school;*
- c) reports, reviews and inquiries into child sexual abuse and/or safeguarding, including internally-commissioned reports and reports by external authorities, inspectorates or agencies;*

*2.6. the adequacy of inter-agency reporting and information sharing between institutions in relation to child sexual abuse in residential schools;*

- 2.7. *the adequacy of inspection and regulatory regimes; and*
- 2.8. *the appropriateness of statutory regimes in relation to vetting and barring.*
3. *As part of the investigation of the issues set out above the Inquiry will:*
- 3.1. *commission preliminary and further research as to the issues set out in paragraph 2;*
- 3.2. *identify a number of case studies for a closer investigation of the issues set out in paragraph 2.*
4. *In light of the investigations, the Inquiry will publish a report setting out its findings, lessons learned, and recommendations to improve child protection and safeguarding in England and Wales.*<sup>1230</sup>

## 2. Core participants and legal representatives

### Counsel to this investigation:

Fiona Scolding QC

Anna Bicarregui

Zoe Nield

Mary Robertson

### Complainant core participants:

**Alex Renton, RS-A1, RS-A2, RS-A3, RS-A4, RS-A5, RS-A8, RS-A14, RS-A26, RS-A27, RS-A28, RS-A29, RS-A30, RS-A42 (Phase 1)**

Solicitor Richard Scorer (Slater and Gordon)

**RS-A6, RS-A7, RS-A13 (Phase 1)**

**RS-A299, RS-A300, RS-A301, RS-A328, RS-A334, RS-A337, RS-A345 (Phase 2)**

Solicitor Kim Harrison (Slater and Gordon)

**RS-A207 (Phase 1)**

Solicitor Marie Forbes (Verisona Law)

**RS-A189 (Phase 1)**

**RS-A10, RS-A11, RS-A12, RS-A46, RS-A47, RS-A48, RS-A49, RS-A50, RS-A51 (Closed residential schools account)**

Solicitor Charles Derham (Remedy Law)

**RS-A31, RS-A32, RS-A33, RS-A34, RS-A35, RS-A36, RS-A38, RS-A39, RS-A40, RS-A41 (Closed residential schools account)**

Solicitor Molly Horsley Frost (Jordans Solicitors)

**RS-A43 (Closed residential schools account)**

Solicitor David Enright (Howe & Co)

**RS-A54, RS-A55, RS-A56, RS-A57, RS-A58 (Closed residential schools account)**

Solicitor David Greenwood (Switalskis)

<sup>1230</sup> Child sexual abuse in residential schools: Definition of scope

**Independent core participants:**

<b>Andrew Leverton (Phase 1)</b>	
Solicitor	Richard Scorer (Slater and Gordon)
<b>RS-H2, RS-H3 (Phase 2)</b>	
Solicitor	Kim Harrison (Slater and Gordon)

**Institutional core participants:**

<b>Boarding Concern (Phase 2)</b>	
Solicitor	Richard Scorer and Kim Harrison (Slater and Gordon)
<b>Independent Schools Inspectorate (Phases 1 and 2)</b>	
Counsel	David Wolfe QC
Solicitor	Sarah McKimm (Independent Schools Inspectorate)
<b>Ecclesiastical Insurance Office (Phase 1)</b>	
Solicitor	Anna Senter (Eversheds Sutherland)
<b>Clifton College (Phase 2)</b>	
Counsel	Samantha Leek QC
Solicitor	Tabitha Cave (Veale Wasbrough Vizards)
<b>Secretary of State for Education (Phases 1 and 2)</b>	
Counsel	Cathryn McGahey QC and Galina Ward
Solicitor	William Barclay (Government Legal Department)
<b>East Riding of Yorkshire Council (Closed residential schools account and Phase 2)</b>	
Counsel	Steven Ford QC
Solicitor	Helen Brown (Weightmans)
<b>Ofsted (Phases 1 and 2)</b>	
Counsel	Sarah Hannett and Alice De Coverley
Solicitor	Beth Forrester and Juliette Smith (Ofsted Legal Services)
<b>North Somerset Council (Phase 2)</b>	
Solicitor	David Milton (BLM)
<b>Bristol City Council (Phase 2)</b>	
Counsel	Jane Rayson
Solicitor	Nancy Rollason (Head of Legal Service and Deputy Monitoring Officer)
<b>National Police Chiefs' Council (Closed residential schools account)</b>	
Counsel	Stephen Morley
Solicitor	Craig Sutherland (East Midlands Police Legal Services)
<b>Chetham's School of Music (Phase 1)</b>	
Counsel	Steven Ford QC
Solicitor	Garry Dover and Michael Pether (BLM)

<b>The Yehudi Menuhin School (Phase 1)</b>	
Counsel	Genevieve Woods
Solicitor	Alice Cave (Farrer and Co)
<b>Wells Cathedral School (Phase 1)</b>	
Solicitor	Emily Part (Farrer and Co)
<b>Southlands School (Phase 1)</b>	
Solicitor	Laura Pennells (Trowers & Hamlins)
<b>Sherborne Preparatory School (Closed residential schools account)</b>	
<b>The Seashell Trust (Phase 1)</b>	
Counsel	Kate Gallafent QC
Solicitor	Tabitha Cave (Veale Wasbrough Vizards)
<b>The Purcell School for Young Musicians (Phase 1)</b>	
Counsel	Reka Hollos
Solicitor	David Smellie (Farrer & Co)
<b>Chief Constable of Dorset Police (Closed residential schools account)</b>	
Solicitor	Alasdair James (Joint Legal Services, Devon & Cornwall and Dorset Police)

### 3. Evidence received by the Inquiry

<b>Number of witness statements obtained:</b>
250
<b>Organisations and individuals to which requests for documentation or witness statements were sent:</b>
Anne Rhind (Phase 1)
Anthony Halford (Phase 2)
Association for the Education and Guardianship of International Students (Phases 1 and 2)
Avon & Somerset Police (Phase 2)
Boarding Schools' Association (Phases 1 and 2)
Bristol City Council (Phase 2)
Care Inspectorate Wales (Phase 2)
Charity Commission (Phases 1 and 2)
Children's Commissioner for Wales (Phase 2)
Dame Christine Lenehan (Phases 1 and 2)
Christopher Hood (Phase 2)
Clifton College (Phase 2)
Crown Prosecution Service (Phase 1)
David Herring (Phase 2)
Delyth Lynch (Phase 2)



<b>Organisations and individuals to which requests for documentation or witness statements were sent:</b>
Denbighshire County Council (Phase 2)
Department for Education (Phases 1 and 2)
Disclosure and Barring Service (Phases 1 and 2)
Ecclesiastical Insurance Office (Phase 2)
Education Workforce Council (Phase 2)
Estyn (Phase 2)
Headlands School/East Riding of Yorkshire Council (Phase 2)
Humberside Police (Phases 1 and 2)
Independent Schools Council (Phase 2)
Independent Schools Inspectorate (Phases 1 and 2)
Joanne Newman (Phase 2)
Karl Anthony Marsh (Phase 2)
Marcus Erooga (Phase 2)
Mark Moore (Phase 2)
Michelle Bamford (Phase 2)
National Association of Head Teachers (Phases 1 and 2)
National Association of Independent Schools & Non-Maintained Special Schools (Phase 1)
National Association of Schoolmasters Union of Women Teachers (Phases 1 and 2)
National Education Union (Phases 1 and 2)
National LADO Network (Phase 2)
Nick Tolchard (Phase 2)
Norman Hall (Phase 2)
North Somerset County Council (Phase 2)
North Somerset Safeguarding Children Board (Phase 2)
North Wales Police (Phase 2)
Office for Standards in Education, Children's Services and Skills (Ofsted) (Phases 1 and 2)
Paul Redding (Phase 2)
Penny Jones (Phase 2)
Peter Emery (Phase 2)
Peter Middleton (Phase 2)
Roger Trafford (Phase 2)
RS-A7 (Phase 1)
RS-A299 (Phase 2)
RS-A301 (Phase 2)
RS-A334 (Phase 2)

**Organisations and individuals to which requests for documentation or witness statements were sent:**

RS-A337 (Phase 2)

RS-A345 (Phase 2)

RS-H1 (Phase 2)

RS-H2 (Phase 2)

RS-H3 (Phase 2)

Sarah Bone (Phase 2)

Dr Stephen Rogers (Phase 2)

Susan Bolt (Phase 2)

Teaching Regulation Agency (Phases 1 and 2)

Dr Tim Greene (Phase 2)

Timothy Ross (Phase 2)

Tony Oliver (Phase 2)

Welsh Government (Phase 2)

**4. Disclosure of documents**
**Total number of pages disclosed: 51,595**

Phase 1: 30,589; Phase 2: 15,460; Phases 1 and 2: 5,546

**5. Public hearings including preliminary hearings**
**Preliminary hearings Phase 1**

1 16 January 2019

2 25 July 2019

**Preliminary hearing Phase 2**

1 14 January 2020

**Public hearing Phase 1**

Days 1-5 30 September-4 October 2019

Days 6-10 7 October-11 October 2019

**Public hearing Phase 2**

Days 1-5 16 November-20 November 2020

Days 6-10 23 November-27 November 2020

**6. List of witnesses**

Surname	Forename	Title	Called, read or summarised	Hearing day
<b>Phase 1</b>				
RS-A1			Called	2
RS-A2			Called	2

Surname	Forename	Title	Called, read or summarised	Hearing day
Vallins	John	Mr	Called	2
Pace	Ian	Dr	Called	2
Hullah	Peter	Mr	Called	2
Moreland	Claire	Mrs	Called	3
Coley	Elizabeth	Ms	Called	3
Richards	Kate	Ms	Called	3
Humphreys	Helen	Ms	Called	3, 9
Bennett	Helen	Mrs	Called	3
Tighe	Alastair	Mr	Called	3
Hillier	Richard	Dr	Called	4
Field	Joanne	Ms	Called	4
Crook	Peter	Mr	Called	4
Smallbone	Graham	Mr	Called	4
Moore	Margaret	Mrs	Called	5
Bambrough	Paul	Mr	Called	5
Wigglesworth	Yasemin	Mrs	Called	5
Wilkins	Dale	Mr	Called	5
Lenehan	Christine	Dame	Called	6
Povey	Carol	Ms	Called	6
Robinson	James	Mr	Called	6
RS-A6			Called	6
Dixon	Kate	Ms	Called	6
Davies	Clair	Ms	Called	7
Curtis	Rachel	Ms	Called	7
Morgan	Jonathan	Mr	Called	7
Hackett	Simon	Professor	Called	7
Gaster	Karen	Ms	Called	8
RS-A7			Called	8
Nash	Richard	Mr	Called	8
Benson	Derek	Mr	Called	8
Spielman	Amanda	Ms	Called	9
McCall	Jolanta	Ms	Called	9
Young	Susan	Ms	Called	9
Smith	Suzanne	Dr	Called	9
Dixon	Kate	Ms	Called	10

Surname	Forename	Title	Called, read or summarised	Hearing day
Lara	Almudena	Ms	Called	10
RS-A4			Adduced	2
RS-C2 (RS-A6)			Adduced	6
RS-A7			Adduced	8
RS-C4			Read	7
RS-A7			Read	8
<b>Phase 2</b>				
Erooga	Marcus	Mr	Called	1
RS-A345			Called	2
Tolchard	Nick	Mr	Called	2
Newman	Joanne	Mrs	Called	2
Moore	Mark	Mr	Called	3
Laird	Nicola	Ms	Called	3
RS-A301			Called	3
Halford	Anthony	Mr	Called	4
Rogers	Stephen	Dr	Called	4
Marsh	Anthony	Mr	Called	4
Herring	Dave	Mr	Called	4
RS-A299			Called	5
RS-H2			Called	5
Hood	Christopher	Mr	Called	5
Smith	Sheila	Ms	Called	6
Bamford	Michelle	Mrs	Called	6
Brown	Amanda	Ms	Called	6
Roach	Patrick	Dr	Called	6
Whiteman	Paul	Mr	Called	6
Meyrick	Alan	Mr	Called	7
Llewellyn	Hayden	Mr	Called	7
Humphreys	Helen	Ms	Called	7
Spielman	Amanda	Ms	Called	7
Kennedy	John	Mr	Called	7
Smith	Suzanne	Dr	Called	8
Gibb	Nick	Rt Hon	Called	8
Berridge	Elizabeth	Baroness	Called	8
Heaney	Albert	Mr	Called	9

Surname	Forename	Title	Called, read or summarised	Hearing day
Rowland	Meilyr	Mr	Called	9
Poole	Vicky	Ms	Called	9
Roberts	Lesley	Ms	Called	9
Holland	Sally	Professor	Called	9
Jones	Chris	Dr	Called	9
Johnson	Richard	Mr	Called	10
Williams	Rhiannon	Ms	Called	10

## 7. Restriction orders

On 23 March 2018, the Chair issued a restriction order under section 19(2)(b) of the Inquiries Act 2005, granting general anonymity to all core participants who allege they are the victim and survivor of sexual offences (referred to as ‘complainant core participants’). The order prohibited:

- (i) the disclosure or publication of any information that identifies, names or gives the address of a complainant who is a core participant; and
- (ii) the disclosure or publication of any still or moving image of a complainant core participant.

This order meant that any complainant core participant within this investigation was granted anonymity, unless they did not wish to remain anonymous. That order was amended on 23 March 2018, but only to vary the circumstances in which a complainant core participant may themselves disclose their own core participant status.<sup>1231</sup>

On 27 September 2019, the Chair issued a restriction order under section 19 of the Inquiries Act 2005. This order prohibited the disclosure or publication of the name of any individual whose identity had been redacted or ciphered by the Inquiry, and any information redacted as irrelevant and sensitive, in connection with this investigation and referred to during the course of evidence adduced during this investigation’s Phase 1 public hearing.<sup>1232</sup>

On 12 February 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 in relation to RS-F80.<sup>1233</sup>

On 2 November 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 to prohibit the disclosure or publication of the name of any individual whose identity has been redacted or ciphered by the Inquiry, and any information redacted as irrelevant and sensitive, in connection with this investigation and referred to during the course of evidence adduced during this investigation’s Phase 2 public hearing.<sup>1234</sup>

<sup>1231</sup> Restriction order 23 March 2018

<sup>1232</sup> Restriction order 27 September 2019

<sup>1233</sup> Restriction order 12 February 2020

<sup>1234</sup> Restriction order 2 November 2020

On 17 November 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 in respect of evidence relating to RS-A345 adduced on day 2 of this investigation's Phase 2 public hearing.<sup>1235</sup>

On 18 November 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 in respect of evidence relating to RS-A301 adduced on day 3 of this investigation's Phase 2 public hearing.<sup>1236</sup>

On 19 November 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 in respect of evidence relating to RS-A309 adduced on day 4 of this investigation's Phase 2 public hearing.<sup>1237</sup>

On 20 November 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 in respect of evidence relating to RS-A300 adduced on day 5 of this investigation's Phase 2 public hearing.<sup>1238</sup>

On 20 November 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 in respect of evidence relating to RS-A346 adduced on day 5 of this investigation's Phase 2 public hearing.<sup>1239</sup>

On 20 November 2020, the Chair issued a restriction order under section 19 of the Inquiries Act 2005 in respect of evidence relating to RS-A320 and RS-H2 adduced on day 5 of this investigation's Phase 2 public hearing.<sup>1240</sup>

## 8. Broadcasting

The Chair directed that the proceedings would be broadcast, as has occurred in respect of public hearings in other investigations.

## 9. Redactions and ciphering

The material obtained for this investigation was redacted, and where appropriate ciphers were applied, in accordance with the Inquiry's Protocol on the Redaction of Documents (the Protocol).<sup>1241</sup> This meant that (in accordance with Annex A of the Protocol), for example, absent specific consent to the contrary, the identities of complainants and victims and survivors of child sexual abuse and other children were redacted. If the Inquiry considered that their identity appeared to be sufficiently relevant to the investigation, a cipher was applied.

Pursuant to the Protocol, the identities of individuals convicted of child sexual abuse (including those who have accepted a police caution for offences related to child sexual abuse) were not generally redacted unless the naming of the individual would risk the identification of their victim, in which case a cipher was applied.

The Protocol also addresses the position in respect of individuals accused, but not convicted, of child sexual or other physical abuse against a child, and provides that their identities should be redacted and a cipher applied. However, where the allegations against

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<sup>1235</sup> Restriction order 17 November 2020

<sup>1236</sup> Restriction order 18 November 2020

<sup>1237</sup> Restriction order 19 November 2020

<sup>1238</sup> Restriction order 20 November 2020: RS-A300

<sup>1239</sup> Restriction order 20 November 2020: RS-A346

<sup>1240</sup> Restriction order 20 November 2020: RS-A320 and RS-H2

<sup>1241</sup> Inquiry Protocol on Redaction of Documents

an individual are so widely known that redaction would serve no meaningful purpose (for example, where the individual's name has been published in the regulated media in connection with allegations of abuse), the Protocol provides that the Inquiry may decide not to redact their identity.

Finally, the Protocol recognises that, while the Inquiry will not distinguish as a matter of course between individuals who are known or believed to be deceased and those who are or are believed to be alive, the Inquiry may take the fact that an individual is deceased into account when considering whether or not to apply redactions in a particular instance.

The Protocol anticipates that it may be necessary for core participants to be aware of the identity of individuals whose identity has been redacted and in respect of whom a cipher has been applied, if the same is relevant to their interest in the investigation.

## **10. Warning letters**

Rule 13 of the Inquiry Rules 2006 provides that:

- "(1) The chairman may send a warning letter to any person –*
- a. he considers may be, or who has been, subject to criticism in the inquiry proceedings; or*
  - b. about whom criticism may be inferred from evidence that has been given during the inquiry proceedings; or*
  - c. who may be subject to criticism in the report, or any interim report.*
- (2) The recipient of a warning letter may disclose it to his recognised legal representative.*
- (3) The inquiry panel must not include any explicit or significant criticism of a person in the report, or in any interim report, unless –*
- a. the chairman has sent that person a warning letter; and*
  - b. the person has been given a reasonable opportunity to respond to the warning letter."*

In accordance with rule 13, warning letters were sent as appropriate to those who were covered by the provisions of rule 13, and the Chair and Panel considered the responses to those letters before finalising the report.

# Annex 2

## Glossary

Academy schools	Schools established under section 1 of the Academies Act 2010. These are state-funded schools which are governed by a contract signed between the school and the Department for Education. Supervision and oversight of such schools lies directly with the Department for Education, and they are regulated against the Independent School Standards.
<i>Achieving Best Evidence in Criminal Proceedings</i>	Guidance issued by the Ministry of Justice on interviewing vulnerable witnesses and victims and on using special measures in criminal court proceedings. Children are automatically entitled to provide evidence by way of a video-recorded interview with a trained police officer, as are complainants in allegations of sexual offences.
Achieving Best Evidence (ABE) interview	Video-recorded interviews with witnesses or complainants are often referred to as ABE interviews.
Additional learning needs (ALN)	A person has additional learning needs if he or she has a learning difficulty or disability which calls for additional learning provision (section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018).
Advocacy services	The provision of representation or advice to assist people to make their wishes and feelings known. Frequently appointed or available when young or vulnerable people interact with statutory agencies involved in their care or the courts.
Allegation management strategy discussion (AMSD), also known as strategy meeting	A meeting organised by the local authority designated officer (LADO) with relevant persons (such as the designated safeguarding lead (DSL) or the police) to discuss and share information relevant to an allegation made to the LADO and to plan any investigations which are necessary.
Approved school	A residential institution for young people either convicted of criminal offences or deemed beyond parental control, known for strict discipline and corporal punishment. Approved schools operated in the UK between 1933 and 1969, and then became Community Homes with Education, under the Children and Young Persons Act 1969.
'Association' independent schools	Schools which are a member of an association that is affiliated to the Independent Schools Council (the Girls' Schools Association, Headmasters' and Headmistresses' Conference, Independent Association of Prep Schools, Independent Schools Association, and the Society of Heads). Association schools are inspected by the Independent Schools Inspectorate rather than Ofsted.
Association of Governing Bodies of Independent Schools (AGBIS)	Membership body affiliated to the Independent Schools Council, which supports and provides advice to governing bodies in the independent sector on all aspects of school governance.
Association of School and College Leaders (ASCL)	A professional association and trade union for school, college and academy trust leaders.



<p>Autistic spectrum disorder (medical name)</p> <p>Autistic spectrum condition (alternative name often used by local authorities or schools)</p> <p>Autism (in common usage)</p>	<p>A diverse group of conditions, characterised by some degree of difficulty with social communication and interaction with other people, atypical patterns of activities and behaviours, including repetitive behaviours, problems transitioning from one activity to another, a focus on details, and unusual reactions to sensations.</p> <p>The broad range of the autistic spectrum means that each person's needs can vary and evolve over time. The level of intellectual functioning varies widely.</p>
Barred list	The Disclosure and Barring Service (DBS) maintains the Children's Barred List and the Vulnerable Adults' Barred List which are records of people prohibited from working with children or from working with vulnerable adults.
Boarding school	A school which provides overnight accommodation for its pupils.
Boarding Schools' Association (BSA)	Membership organisation representing boarding schools. Provides training and advice to schools in the independent and state sector in the UK and other countries.
Buggery	Prior to the Sexual Offences Act 2003, which created the offence of anal rape, offences of anal penetration were referred to and charged as the offence of buggery.
Child	A person under the age of 18.
Child protection (see also 'Safeguarding')	<p>Activity to protect a child or children who are identified as suffering, having suffered or likely to suffer significant harm.</p> <p>Often used by practitioners interchangeably with safeguarding, child protection refers to activity in relation to a specific child who has been identified as being at risk, whereas safeguarding is used to refer to measures to keep all children safe.</p>
Child sexual abuse	Sexual abuse of children involves forcing or enticing a child or young person to take part in sexual activity. The activity may involve physical contact or may be non-contact, including via the internet, such as involving children in looking at or in the production of sexual images and watching sexual activity, or encouraging children to engage in sexual activity with other children. Child sexual abuse includes child sexual exploitation.
Child sexual exploitation	A form of child sexual abuse. It involves exploitative situations, contexts and relationships where a child receives something as a result of them engaging in sexual acts. It can occur through the use of technology without the child's immediate recognition; for example, being persuaded to post sexual images on the internet/mobile phones without immediate payment or gain.
Civil claim	A legal claim by an individual or group of individuals for damages for the abuse they have suffered, undertaken through the civil rather than the criminal justice system.
Common inspection framework (CIF)	Document issued by Ofsted from 2015 to 2019 to provide details as to how it will inspect schools and other educational settings. Now replaced by the <i>Education inspection framework</i> (EIF).

Compliance notice	<p>(1) Notice issued by regional schools commissioners or the local authority to indicate that the school is failing in a significant way; also called a statutory warning notice.</p> <p>(2) Notice issued by the Department for Education if it considers that steps need to be taken for the school to improve (also called a statutory notice).</p> <p>(3) Notice issued by the Charity Commission where it considers that steps need to be taken for trustees to improve the charity.</p>
Conditional discharge	A disposal available to a criminal court upon conviction of a defendant. A conditional discharge means that the offender is discharged from the court with no sentence imposed for the offence unless they commit a further offence within a time decided by the court (no more than three years).
Criminal justice system	The system which investigates, prosecutes, tries and sentences individuals who are suspected of committing a criminal offence. This also encompasses institutions responsible for imprisonment, probation and sentences served in the community.
Crown Prosecution Service (CPS)	Independent agency headed by the Director of Public Prosecutions that is responsible for prosecuting criminal cases that have been investigated by the police.
Dark web	Part of the world wide web that is only accessible by means of specialist software and cannot be accessed through well-known search engines.
Department for Education (DfE)	The Department for Education is a ministerial department of the government, supported by 17 agencies and public bodies. It is responsible for children's services and education in England.
Designated safeguarding lead (DSL)	Each school in England should appoint a senior member of staff as DSL, with lead responsibility for safeguarding and child protection at the school, including the provision of advice to other staff, supporting staff and attending meetings with statutory agencies. The role is set out in full at Annex C of <i>Keeping Children Safe in Education</i> .
Designated safeguarding person (DSP) (Wales)	In Wales, the senior member of staff from the leadership team of the school with lead responsibility for safeguarding and child protection at the school. Full details and responsibilities are set out in <i>Keeping Learners Safe</i> .
Disability	A physical or mental impairment that has a substantial and long-term negative effect on a person's ability to undertake normal daily activities.
Disclosure and Barring Service (DBS)	An executive non-departmental public body that processes and issues criminal records checks for England, Wales, the Channel Islands and the Isle of Man. It also maintains the adults' and children's barred lists and makes decisions as to whether an individual should be included on one or both of these lists. It replaced the Criminal Records Bureau (for disclosure of criminal records) and the Independent Safeguarding Authority (which previously operated the barred lists).
Disclosure and Barring Service (DBS) checks (formerly CRB checks)	A check carried out by the Disclosure and Barring Service of an individual's criminal record, which may also include police information. An employer must obtain a DBS check before engaging a person to work with children, as part of safer recruitment procedures.
Education, health and care plan (EHC plan)	<p>A plan for children and young people aged up to 25 who need more support than is available through special educational needs support.</p> <p>EHC plans identify educational, health and social needs and set out the additional support to meet those needs. With some minor exceptions, only children with EHC plans can attend a special school.</p>

Education Workforce Council (EWC)	Independent regulator in Wales for the education workforce, covering teachers, learning support staff in schools and further education, qualified youth workers and work-based learning practitioners. Came into being in April 2015.
Educational guardian	A person appointed by a parent/carer, who lives outside the UK, to look after a child being educated in the UK. This includes the provision of support, guidance and accommodation to the young person if required.
Ex gratia payment	A payment for damages, made voluntarily but without any admission of liability or guilt.
Extradition	Extradition is the formal process for requesting the surrender of a person from one country to another for the following purposes: to be prosecuted; to be sentenced for an offence for which the person has already been convicted; or to carry out a sentence that has already been imposed.
First-tier Tribunal (Special Educational Needs and Disability)	Specialist tribunal established to hear appeals by parents/carers against decisions of local authorities regarding a child's special educational needs. Also hears cases of disability discrimination by schools under the Equality Act 2010.
Flexi-boarding	(1) The offer of accommodation on fewer than four nights a week at a school. (2) In some schools, where students stay after the end of the school day, eat dinner and do their homework with others, and can stay until bedtime.
General Teaching Council for England (GTCE)	Between 2000 and 2012, the regulatory body for registered teachers which maintained the register of teachers with Qualified Teacher Status (QTS), heard professional misconduct allegations regarding teachers with QTS, and gave advice to government on a wide range of policy issues affecting the teaching profession.
General Teaching Council of Wales (GTCW)	In Wales, the body which between 2004 and 2015 operated the register of teachers and regulated their professional conduct, as well as gave advice to the Welsh Government. Replaced by the Education Workforce Council.
Governing body	A group of individuals appointed to provide oversight of a maintained school. There can also be governing bodies of academies and independent schools but this is not a mandatory requirement. Governing bodies of schools have strategic responsibility for safeguarding and child protection.
Governors	Members of a governing body. Their appointment depends upon the Instruments of Government upon which the school was founded.
Grooming	Building a relationship with a child in order to gain their trust for the purposes of sexual abuse or exploitation. The process by which a perpetrator communicates with a child with the intention of committing sexual abuse or exploitation, and by which the perpetrator seeks to minimise the likelihood of disclosure by the child. Includes manipulating or enticing a child to engage in sexual activity, or normalising sexual behaviour between adults and children.
Gross misconduct	Misconduct by an employee which is so serious as to legally permit dismissal by the employer.
Harmful sexual behaviour	Sexual abuse between children, whether children of different ages or children of a similar age. It may also be referred to as sexually harmful behaviour or sexualised behaviour.

Home schooling	The education of school-aged children at home or places other than school.
Independent school	A school which can charge fees for students to attend. All such schools have to be registered with the Department for Education. Sometimes known as private schools.
Independent Schools Council (ISC)	Membership organisation representing the views of 'Association' independent schools (see above), providing guidance and training to them.
Independent Schools Inspectorate (ISI)	An independent, government-approved body which provides objective inspections to safeguard the quality and effectiveness of education, care and welfare of children in independent schools in England which are members of the Associations of the Independent Schools Council.
Independent School Standards (ISS)	Set of mandatory requirements in respect of education, welfare and pastoral care as well as accommodation and facilities, against which independent schools in England and Wales are inspected and which they have to follow. Set out in The Independent School Standards (Wales) Regulations 2003 and, in England, The Education (Independent Schools Standards) Regulations 2014.
Interagency reporting	Sharing of information between different statutory bodies with responsibilities for child protection/safeguarding, eg the police, health service, social services.
<i>Keeping Children Safe in Education (KCSIE)</i>	Statutory guidance issued by the Department for Education for all schools and colleges in England concerning the management of child protection and safeguarding issues. All schools and colleges must have regard to it when carrying out their duties to safeguard and promote the welfare of children. Latest version issued September 2021.
<i>Keeping Learners Safe (KLS)</i>	Statutory guidance issued by the Welsh Government which must be read and followed by local authorities and all schools and colleges, and is recommended as relevant for other youth and children's services or education-related provision. Latest version issued April 2021.
List 99	List maintained by the Department for Education from the 1920s to 2009 of those unsuitable to work with children. Replaced by the Protection of Children Act (PoCA) list and subsequently by the Children's Barred List, now operated by the Disclosure and Barring Service.
Local authority designated officer (LADO)	Officer working within the children's services department of a local authority designated to receive allegations that an adult working with children may have abused or may pose a risk to a child. The LADO is responsible, under statute, for investigating such complaints.
Local safeguarding children board (LSCB)	The Children Act 2004 required each local authority to have a local safeguarding children board as the key statutory mechanism for agreeing how the relevant agencies in each local area will cooperate to safeguard and promote the welfare of children in that locality, and for ensuring the effectiveness of what they do. Replaced in England in 2019 by local safeguarding partnerships. LSCBs still operate in Wales.
Low-level concern	A concern about an adult working with children which is below the threshold for referral to the local authority designated officer (LADO). Since the revision of <i>Keeping Children Safe in Education</i> in September 2021, low-level concerns about staff have to be recorded by schools.
Mainstream school	Any school that is not a special school, ie that does not cater exclusively for children with special educational needs.
Maintained schools	Schools operated and funded by a local authority.

Multi-agency working	Commonly used in public services to mean working across public bodies, eg the police, education and social services. Local safeguarding children boards (LCSBs) are an example.
Multi-agency strategy meeting	Formal meeting called by social services where there is reasonable cause to suspect that a child/young person may be suffering or have suffered significant harm. It will involve social services, the police and other bodies. Sometimes called a s47 meeting. There may be a single meeting or a series of meetings to reach an outcome in a case.
Music and Dance Scheme (MDS)	A scheme operated by the Department for Education which provides means-tested bursaries to fund children to attend the specialist dance or music schools in England.
National Association of Head Teachers (NAHT)	Union and professional association representing those in leadership positions in sectors from early years to further education colleges and pupil referral units and other educational settings.
National Association of Schoolmasters Union of Women Teachers (NASUWT)	Union representing teachers in all sectors from early years to further education. Second largest education union in the UK.
National Association of Special Schools (NASS)	A membership organisation for non-maintained and independent special schools in the independent, voluntary and private sectors in the United Kingdom.
National College for Teaching and Leadership (NCTL)	Executive agency of the Department for Education operating in England between 2013 and 2018, which: <ul style="list-style-type: none"> <li>(a) provided the award of qualified teacher status;</li> <li>(b) oversaw teaching induction; and</li> <li>(c) dealt with cases of professional misconduct and could issue prohibition orders.</li> </ul>
National Education Union (NEU)	Trade union operating across the United Kingdom for teachers, further education lecturers, support staff and teaching assistants.
National Governance Association	A membership organisation for governors, trustees and clerks of state-funded schools in England. Provides advice, guidance and support.
National LADO Network	Membership association formed in 2016 to support local authority designated officers (LADOs) in developing robust systems for managing allegations against people who work with children and young people, to operate as a forum for discussion of the LADO role and service, and to share information and practice.
National minimum standards (NMS)	Standards issued by the Department for Education (England) and Welsh Assembly (Wales) against which boarding provision is inspected. There are separate NMS for mainstream boarding schools and for residential special schools.
National Society for the Prevention of Cruelty to Children (NSPCC)	A charity campaigning and working in child protection in the United Kingdom and the Channel Islands.
Neutral notification	A system of reporting and recording low-level concerns about staff and students (ie those which would not warrant a referral to a local authority designated officer and/or dismissal/serious disciplinary action) but which cause concern or anxiety.

Office for Standards in Education, Children's Services and Skills (Ofsted)	A non-ministerial department that inspects and regulates services that care for children and young people, and services providing education and skills.
Operation Hydrant	A hub established by the National Police Chiefs' Council in 2014 to provide national coordination, oversight and guidance to police forces on allegations of non-recent child sexual abuse concerning persons of public prominence, or which took place within institutional settings.
Operation Kiso	Police investigation by Greater Manchester Police begun in 2014 into allegations of sexual abuse connected to Chetham's School of Music and/or the Royal Northern College of Music.
Order of the British Empire (OBE)	A British order of chivalry given by the monarch to people who demonstrate prominent achievements in service to their country or community.
Personal and social education (PSE)	A compulsory component of the state school curriculum in Wales for those aged between 5 and 16. Includes sex and relationships education.
Personal, social and health education (PSHE)	A compulsory component of the school curriculum in England. It includes relationships and sex education (RSE).
Private school	See 'independent school'.
Profound and multiple learning disabilities (PMLD)	Severe learning disabilities and other disabilities that significantly affect a person's ability to communicate and be independent. May include severe sensory and mobility impairments.
Progress monitoring inspection (PMI)	Inspection by an inspectorate to monitor action against a plan after a school has been issued with a notice requiring them to comply with certain actions.
Prohibition orders	An order imposed by the Teaching Regulation Agency (in England) or the Education Workforce Council (in Wales) prohibiting an individual from undertaking teaching work in schools/colleges in the United Kingdom.
Proprietors	People who own independent schools. These can be individuals, trusts or companies.
Quality standards	Set of mandatory requirements issued by the Department for Education against which children's homes are inspected, which relate to the accommodation, health, safety and welfare of children in those settings.
Residential school	A school that provides overnight accommodation for pupils, as well as education.
Relationships and sex education (RSE)	In England, it became a mandatory obligation to teach relationships and sex education in all schools from September 2020. Relationships education must be taught from 5 to 16. Sex education is compulsory from 11 to 16, but can be taught in primary settings. Statutory guidance sets out the core content to be taught at each age. In Wales, it will become mandatory from 2022.
Relationships, sex and health education (RSHE)	In England, it is a mandatory obligation to teach relationships, sex and health education (see RSE). Health education must be taught in all state-funded schools from September 2020.
Risk of sexual harm order	A civil order which could be imposed by the court on a person who was thought to pose a risk of sexual harm to a child under the age of 16. In 2014, risk of sexual harm orders were replaced by (a) sexual harm prevention orders (SHPOs) and (b) sexual risk orders (SROs).

Safeguarding (see also 'Child protection')	Protecting children from maltreatment; preventing impairment of children's health or development; ensuring that children have safe and effective care; and taking action to enable all children to have the best life chances.
Safeguarding policy (see also 'Safeguarding')	Guidance, rules and procedures put in place by an organisation in order to safeguard children.
Secretary of State for Education	Minister responsible for the work of the Department for Education, including: early years, children's social care, teacher recruitment and retention, the school curriculum, school improvement, academies and free schools, further education, apprenticeships and skills, higher education, and oversight of the departmental coronavirus (COVID-19) response.
Serious incident reports	If there has been a serious incident in a charity it must be reported to the Charity Commission. A serious incident is an adverse event, whether actual or alleged, which results in or risks significant harm to the charity's beneficiaries, staff, volunteers or others who come into contact with the charity through its work; loss of the charity's money or assets; damage to the charity's property; or harm to the charity's work or reputation.
Single central record (SCR)	Register which should be maintained by every school that sets out the recruitment checks undertaken prior to permitting a person to start work and when such checks need to be updated.
<i>Social care common inspection framework (SCCIF)</i>	Guidance issued by Ofsted as to how it inspects children's homes. Published 2017 and updated in 2021.
Social, emotional and mental health (SEMH) difficulties	A type of special educational need where children and young people have severe difficulties in managing their emotions and behaviour.
Special educational needs and disabilities (SEND)	Learning difficulties or a disability that affect a child's ability to learn.
Special school	A state-funded or independent school specially organised to make provision for pupils with special educational needs. It may be maintained by a local authority or academy, or be a non-maintained special school.
State-funded schools	Schools that are paid for by national taxes and provide free education to children between the ages of 3 and 18.
Teaching Regulation Agency (TRA)	Executive agency of the Department for Education which regulates the teaching profession and maintains a record of those with qualified teacher status (QTS).
Whistleblower	A person, usually a worker, who exposes information or activity within a private, public or government organisation which is illegal, endangers someone's health and safety, damages the environment, is an abuse of power, or involves covering up wrongdoing in any of these categories.
<i>Working Together to Safeguard Children</i>	Statutory guidance issued by the Department for Education (and prior to that the Department of Health) since 1991 which provides advice on child protection practices and processes for those working with children across all sectors.



# Annex 3

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## Structure of safeguarding in schools

### Introduction

1. There are a number of bodies responsible for ensuring that safeguarding in schools is effective. Safeguarding responsibilities in schools encompass a broad range of issues.
2. The overarching statutory framework for safeguarding children in England and in Wales is the child protection procedure set out in section 47 of the Children Act 1989. However, each country produces its own statutory guidance concerning safeguarding children.

### Safeguarding children in schools in England

3. A number of different government agencies and public bodies are involved in the system of safeguarding children in schools in England. In addition, staff in schools with specific safeguarding or leadership and management roles have responsibilities for the pupils. Safeguarding in schools also involves other agencies whose remit extends beyond the education sector, such as the Disclosure and Barring Service (DBS).
4. There must be cooperation and information-sharing between all the different bodies to ensure the system works efficiently. Statutory guidance published by the Department for Education sets out how this multi-agency working must operate to safeguard children and promote their welfare.

### Department for Education

5. Since 2003, the Department for Education has had legislative responsibility for the system of both children's social care and education.<sup>1242</sup> The Secretary of State for Education (Secretary of State) has a general duty to promote the well-being of children.<sup>1243</sup>
6. The Department for Education produces policies, procedures and guidance related to child sexual abuse and safeguarding in schools. The two most significant pieces of guidance since 1988 in respect of safeguarding children in schools have been:
  - *Working Together to Safeguard Children*: first produced in 1988 and last updated in December 2020;<sup>1244</sup> and
  - *Keeping Children Safe in Education*: introduced in 2014 and regularly updated, with the latest version coming into force in September 2021 after a consultation process.<sup>1245</sup>
7. The Secretary of State has oversight of all academy schools. Day-to-day responsibilities lie with the regional schools commissioners, a group of civil servants who make decisions on behalf of the Secretary of State. Academies' responsibilities are set out in a funding agreement between the academy and the Secretary of State and any legislation which

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<sup>1242</sup> DFE002073\_002-003 para 8

<sup>1243</sup> Section 7 of the Children and Young Persons Act 2008

<sup>1244</sup> INQ006608

<sup>1245</sup> INQ006502



expressly applies to academies, which includes safeguarding legislation and guidance. Under powers set out in the funding agreements, the Secretary of State can intervene where academies are ‘causing concern’, which would include failures in safeguarding. Academies are run by a trust (a single academy trust or multi-academy trust). If an academy school is judged to be inadequate, it can be transferred to another academy trust via an administrative process.

**8.** Where maintained schools are judged to be inadequate, whether through failures of safeguarding or otherwise, the Secretary of State has the power to make an academy order, converting a maintained school into an academy.<sup>1246</sup>

**9.** The Secretary of State is responsible for holding a register of independent schools and it is a criminal offence for anyone to operate an independent school without registration.<sup>1247</sup> Since 2003, the Department for Education has provided a set of standards which all independent schools must meet – the Independent School Standards (ISS)<sup>1248</sup> – and has also set national minimum standards (NMS) for residential schools (whether state-funded or independent) and for residential special schools.<sup>1249</sup> These standards all include the requirement for schools to have regard to the need to safeguard and promote the welfare of children. There are enforcement powers which the Secretary of State can use against independent schools which are not meeting the standards, including those in respect of safeguarding. Enforcement powers include requiring a school to submit an action plan as to how it will meet the relevant standards, restricting the admission of pupils or removing the school from the register.<sup>1250</sup>

## *Inspection*

**10.** All schools in England, whether day or boarding, are inspected by either the Office for Standards in Education, Children’s Services and Skills (Ofsted) or the Independent Schools Inspectorate (ISI). Ofsted inspects all state-funded schools and ‘non-association’ independent schools. ‘Association’ independent schools (that is, members of the Independent Schools Council) are inspected by the ISI.

**11.** Inspections include an assessment of the safeguarding arrangements of the school. Ofsted inspects state-funded schools against a common inspection framework, which includes requirements for effective safeguarding arrangements. Where Ofsted finds safeguarding to be ineffective, this results in an overall judgement of inadequate, and the school will be ordered to become an academy by the Secretary of State.<sup>1251</sup>

**12.** Independent schools are inspected against the ISS and boarding schools (whether independent or state-funded) and residential special schools are inspected against the relevant NMS. If independent schools are found not to meet safeguarding standards, the inspectorate will notify the Department for Education, which can issue the school with a notice to improve or take other enforcement action.

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<sup>1246</sup> Section 4(A1) of the Academies Act 2010

<sup>1247</sup> Section 96(2) of the Education and Skills Act 2008

<sup>1248</sup> OFS000254

<sup>1249</sup> DFE003352; DFE002018

<sup>1250</sup> DFE002073\_037 para 141

<sup>1251</sup> DFE002073\_043 para 170

**13.** If schools provide accommodation for children for over 295 days per year, they are considered to be children's homes.<sup>1252</sup> Children's homes must be registered with Ofsted, which is the regulator and inspector of these services.<sup>1253</sup> Children's homes are inspected and judged against 'quality standards', including those relating to the protection of children and their care and well-being.<sup>1254</sup> Ofsted has the power to issue a 'compliance notice' and to suspend or remove a children's home from the register where it considers that a children's home is not safe or of a good enough quality.<sup>1255</sup>

### *Local authorities*

**14.** Local authorities are responsible for overseeing the safety of children in their area and for investigating alleged abuse if there is a reasonable suspicion that a child was or may be suffering significant harm.<sup>1256</sup> They are also under a duty to promote the welfare of children in their area and to cooperate with other statutory bodies to improve the well-being of children.<sup>1257</sup>

**15.** The local authority has no day-to-day oversight over safeguarding in schools in its area, except as one of the partners in the local children's safeguarding partnership set out below.

**16.** Maintained schools are funded by the local authority but are semi-autonomous. The local authority does not recruit school staff, other than the headteacher. The board of governors of a maintained school must include one governor nominated by the local authority. Local authorities may retain human resources functions for maintained schools and can also provide governor services (usually paid for by the school) such as clerks and training for governing bodies. Local authorities can provide advice and information to schools and can offer independent investigatory personnel in cases of complex safeguarding allegations against staff in maintained schools.<sup>1258</sup>

### **The local authority designated officer**

**17.** In 2004, *Working Together to Safeguard Children* created the role of the local authority designated officer (LADO). Each local authority should have designated a particular officer or team of officers to be involved in the management and oversight of allegations against people who work with children.<sup>1259</sup> *Keeping Children Safe in Education* states that the LADO should be informed immediately of any allegations that an adult working in a school has:

- behaved in a way that has harmed a child or may have harmed a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates they may pose a risk of harm to children; or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children.<sup>1260</sup>

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<sup>1252</sup> Section 1(5)–(6) of the Care Standards Act 2000; DFE001994

<sup>1253</sup> Section 11 of the Care Standards Act 2000

<sup>1254</sup> OFS000155; DFE001986

<sup>1255</sup> Sections 14, 14A and 22A of the Care Standards Act 2000; DFE002073\_011 para 36

<sup>1256</sup> Sections 17 and 47 of the Children Act 1989

<sup>1257</sup> Sections 10 and 11 of the Children Act 2004

<sup>1258</sup> INQ006502\_084 para 353

<sup>1259</sup> DFE003363\_057 para 5

<sup>1260</sup> INQ006502\_081-083 paras 335–350

**18.** When a school makes a referral to the LADO, the LADO will manage and oversee the investigation. The relevant individual from the school (usually the headteacher) will discuss the case with the LADO, who may decide that no further action is necessary. However, if there is cause to suspect a child is suffering or is likely to suffer significant harm, the LADO will convene and coordinate strategy meetings with participants from the school and the other agencies involved in the investigation, such as the police and children's social care, in accordance with the statutory guidance. If there is an allegation that a criminal offence may have been committed, the police will conduct an investigation and may refer the case to the Crown Prosecution Service to consider a prosecution. If the case does not require a police investigation, children's social care may carry out an investigation under section 47 of the Children Act 1989. Police or social workers investigating the allegation report back to the strategy meeting. Once investigations are concluded, the LADO coordinates multi-agency decision-making processes regarding conclusions, outcomes or further actions.<sup>1261</sup>

**19.** The LADO deals only with allegations against adults working with children, not allegations of harmful sexual behaviour between children. Where there are concerns that significant harm to a child has been caused by a child, the school should make a referral to children's social care.

#### **Local safeguarding children boards and local safeguarding partnerships**

**20.** Local safeguarding children boards were set up in 2004 to provide a mechanism for strategic oversight of, and joint training and advice to, all bodies within a local authority area which make provision for children and young people.<sup>1262</sup>

**21.** From September 2019, multi-agency arrangements were changed to local safeguarding partnerships (LSPs). Under this organisational framework the local authority, the chief officer of police and clinical commissioning groups are jointly responsible for making arrangements to safeguard and promote the welfare of children in their area.<sup>1263</sup> Schools and colleges are required to contribute to multi-agency working, and to understand their role in safeguarding partnership arrangements.<sup>1264</sup>

**22.** It is "expected" (but not compulsory) that the LSP will name schools in its area as "relevant agencies", which places them under a statutory duty to cooperate with the published arrangements.<sup>1265</sup> The LSP should also publish a document which sets out in clear terms the local criteria for action, including the criteria for when a case should be referred to children's social care for an investigation under section 47 of the Children Act 1989.<sup>1266</sup> This would include cases concerning harmful sexual behaviour between children or familial abuse. Governing bodies and schools should know about the local criteria for action and ensure that it is reflected in their own procedures.

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<sup>1261</sup> INQ005072\_001 para 3

<sup>1262</sup> DFE002073\_005 paras 17–19

<sup>1263</sup> DFE003363\_105

<sup>1264</sup> DFE003363\_076 paras 25–27

<sup>1265</sup> DFE003363\_075 para 18

<sup>1266</sup> DFE003363\_015 para 16

## Safeguarding roles within schools

### Headteacher and designated safeguarding lead

**23.** Headteachers have day-to-day responsibility for a school, which includes responsibility for safeguarding. The headteacher also has a central role in managing referrals of allegations of abuse by staff to the local authority.

**24.** Schools must appoint a senior member of staff to oversee and manage child protection and safeguarding responsibilities (as set out in *Keeping Children Safe in Education*), including dealing with incidents of harmful sexual behaviour between children in school. This role was previously called the child protection officer or designated person and is now the designated safeguarding lead (DSL).

### Governors, proprietors, trustees and boards of management

**25.** Most schools have a group of volunteers who oversee the management of the school. They are often called governors but sometimes they are known as trustees or boards of management. They play a central role in the oversight and management of a school, which includes ensuring that there is adequate scrutiny of safeguarding arrangements.

**26.** Each maintained school must have a governing body whose membership and responsibilities are set out in legislation.<sup>1267</sup> Academies are not required by law to have governing bodies, although some choose to do so.<sup>1268</sup> All academies are run by a trust and the trustees of an academy or a multi-academy trust have governance responsibilities.

**27.** Independent schools may be owned by a group (a proprietor body) or by an individual (sole proprietor). Independent schools are not required by law to have a governing body. If there is no governing body, it is the responsibility of the proprietor (whether a sole proprietor or a proprietor body) to oversee safeguarding in the school.

**28.** The safeguarding responsibilities of governors or proprietors of schools are set out in *Keeping Children Safe in Education*. These duties include:

- ensuring that effective policies and procedures are in place;<sup>1269</sup>
- ensuring that adequate training is undertaken by staff;<sup>1270</sup> and
- giving guidance and oversight to the arrangements for child protection.<sup>1271</sup>

**29.** Every school should have a designated governor for safeguarding to take responsibility for all child protection matters and ensure annual evaluation of policies and procedures.<sup>1272</sup> If an allegation of abuse is made against the headteacher, the chair of governors or proprietor has a duty to refer the allegation to the LADO.<sup>1273</sup> The governing body also has a role in exercising its disciplinary functions in respect of child protection allegations against a member of staff.

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<sup>1267</sup> Section 19 of the Education Act 2002; The School Governance (Constitution) (England) Regulations 2012

<sup>1268</sup> INQ006521

<sup>1269</sup> INQ006502\_025-026 paras 84–85

<sup>1270</sup> INQ006502\_031 para 114

<sup>1271</sup> INQ006502\_024-025 paras 78–83

<sup>1272</sup> INQ006502\_024-026 paras 80, 85

<sup>1273</sup> INQ006502\_082 para 341

## Vetting and barring

**30.** Schools have an obligation to comply with safer recruitment guidance, currently set out in *Keeping Children Safe in Education*. This means they must undertake criminal records checks and also, depending on the nature of the role, check whether the applicant has been barred from working with children or is disqualified from teaching or from holding a management role within a school. The DBS, an executive agency of the Home Office, provides these criminal records checks for schools and also has barring functions to prohibit those who pose a risk of harm to children from working with them. Schools are under an obligation to refer staff or volunteers who have been dismissed, resigned or retired following safeguarding allegations to the DBS.

## Teacher misconduct

**31.** All teachers (but not usually teaching assistants), whether working in state-funded or independent schools, are subject to the misconduct jurisdiction of the Teaching Regulation Agency (TRA), which is an executive agency of the Department for Education. The TRA investigates complaints of serious misconduct and has the power to prohibit an individual from teaching.

## Charity Commission

**32.** Many independent schools are owned or run by charities and are therefore regulated by the Charity Commission, a non-ministerial government department.<sup>1274</sup> The charitable trust must be registered with the Charity Commission, although the Charity Commission does not record whether a registered charity is a school or runs a school.<sup>1275</sup> The trustees of a charity must comply with charity law. All charities must have regard to the need to protect their beneficiaries.<sup>1276</sup> Trustees must ensure that there are clear lines of accountability and responsibility for safeguarding, with appropriate safeguarding policies and processes in place. Trustees are under a duty to make a report of any 'serious incident' (which includes allegations of sexual abuse) to the Charity Commission.<sup>1277</sup>

**33.** The Charity Commission does not investigate individual incidents or allegations of sexual misconduct or abuse.<sup>1278</sup> It can issue regulatory advice, serve notices asking for improvement and initiate a statutory inquiry where it has serious regulatory concerns.<sup>1279</sup> It has powers to suspend or remove trustees who have been responsible for misconduct or mismanagement. The Charity Commission does not have any specific regulatory powers in relation to schools.

## Children's Commissioner for England

**34.** The role of Children's Commissioner for England was established by the Children Act 2004 to be the voice of children and young people, with special responsibility for those in local authority care.<sup>1280</sup> The Commissioner's Office offers a service called 'Help at Hand',

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<sup>1274</sup> CYC000410\_002-003 paras 7–9

<sup>1275</sup> CYC000410\_008-009 paras 25–27

<sup>1276</sup> CYC000410\_012 para 37

<sup>1277</sup> CYC000410\_014-016 para 42

<sup>1278</sup> CYC000410\_010-011 paras 32 and 36

<sup>1279</sup> CYC000410\_016-021 paras 43–60; CYC000407

<sup>1280</sup> Section 2 of the Children Act 2004

which provides advice to young people living away from home, and which can include making representations on behalf of the young people. The Commissioner has no power to investigate individual complaints but can hold inquiries into systemic issues.<sup>1281</sup>

## Safeguarding children in schools in Wales

**35.** A number of different government agencies and public bodies are involved in the system of safeguarding children in schools in Wales. In addition, staff in schools with specific safeguarding or leadership and management roles have responsibilities for the pupils. Statutory guidance published by the Welsh Government sets out the roles and responsibilities of school staff and leaders, and explains how multi-agency working must operate to safeguard children and promote their welfare.

### Welsh Government

**36.** The Welsh Government has produced several pieces of statutory guidance relating to safeguarding and schools:<sup>1282</sup>

- *Keeping learners safe*: a document aimed at all schools and educational institutions, setting out practice in respect of child protection, issued in 2014 and updated in March and April 2021;<sup>1283</sup>
- *Safeguarding children in education: handling allegations of abuse against teachers and other staff*, published in 2014;<sup>1284</sup>
- *Working Together to Safeguard People*: a multi-volume piece of statutory guidance published under the Social Services and Well-Being Act (Wales) 2014, which includes guidance on the duties to prevent abuse of children in any setting;<sup>1285</sup> and
- *Wales Safeguarding Procedures*, first introduced in 2008, which applies to schools and all settings involving children or vulnerable adults.<sup>1286</sup>

**37.** State-funded schools in Wales are all maintained schools, funded by the local authority. There are no academy schools in Wales.

**38.** Independent schools must register with the Welsh Government and it is an offence to conduct an independent school if it does not have registration.<sup>1287</sup> Independent schools must comply with the Independent School Standards (ISS) for schools in Wales and residential schools must comply with the national minimum standards (NMS) for boarding schools or residential special schools in Wales. Neither the ISS nor the NMS for Wales have been amended or updated since 2003.

**39.** The Welsh Government has the power to take enforcement action against an independent school if it is in breach of the ISS or NMS. Enforcement powers include requiring a school to submit an action plan as to how to meet the relevant standards or removing the school from the register.<sup>1288</sup>

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<sup>1281</sup> Section 2(5) of the Children Act 2004

<sup>1282</sup> WGT000476\_005 para 34

<sup>1283</sup> INQ006522

<sup>1284</sup> INQ006524

<sup>1285</sup> CIW000012; WGT000470

<sup>1286</sup> *Wales Safeguarding Procedures*

<sup>1287</sup> WGT000476\_014 para 89

<sup>1288</sup> WGT000476\_025 paras 152–154

**40.** Welsh ministers have powers to intervene if local authorities are not providing adequate safeguarding functions or delivering adequate educational provisions.<sup>1289</sup>

**41.** The Social Services and Well-being (Wales) Act 2014 established a National Independent Safeguarding Board to oversee the work of the regional safeguarding children boards.<sup>1290</sup> The Welsh Government also operates a Safeguarding in Education Board made up of local authority representatives and other organisations (such as the Children’s Commissioner for Wales and the Welsh inspectorate of schools, Estyn) to provide a dialogue with practitioners about the development of procedures.<sup>1291</sup> Its role is to recommend where changes need to be made to *Keeping learners safe*, to develop better arrangements with a consistent approach and to disseminate good practice.<sup>1292</sup>

## Inspection

**42.** Safeguarding in schools is monitored for compliance with regulatory standards by the Welsh inspectorate, Estyn, or the Care Inspectorate Wales (CIW) in the case of residential schools.

**43.** Estyn is an independent body sponsored by the Welsh Government which inspects all maintained and independent schools in Wales, as well as providing a wide range of other services. The duty to inspect independent schools includes a remit for Estyn to provide ongoing advice and support to the Welsh Government about independent schools, in particular their registration and whether or not they meet the relevant standards.<sup>1293</sup> Inspections of maintained schools are undertaken against a common inspection framework, which includes requirements for effective safeguarding arrangements. Independent schools are inspected against the ISS and the common inspection framework. If Estyn identifies shortcomings in the safeguarding arrangements of a maintained school, the local authority will be involved in follow-up work with the school to ensure it complies with Estyn’s recommendations.<sup>1294</sup> If Estyn finds that safeguarding at an independent school is inadequate, it notifies the Welsh Government which may take enforcement action.<sup>1295</sup>

**44.** The CIW inspects the residential aspects of all boarding schools as well as residential special schools where pupils are accommodated for fewer than 295 days in a year. It inspects these schools against the NMS for boarding schools and residential special schools.<sup>1296</sup> It registers, regulates and inspects residential special schools where pupils are accommodated for more than 295 days.<sup>1297</sup> Regulating a school gives the CIW more extensive powers and means that the school is judged against standards made under the Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA). The CIW visits residential special schools annually; boarding schools are inspected every three years.<sup>1298</sup>

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<sup>1289</sup> WGT000476\_017-018 paras 106–109

<sup>1290</sup> WGT000476\_006 para 39

<sup>1291</sup> WGT000476\_007 para 44

<sup>1292</sup> WGT000476\_007-008 paras 45–52

<sup>1293</sup> WGT000476\_022-023 paras 139–144

<sup>1294</sup> ETN000736\_017 para 96

<sup>1295</sup> WGT000476\_022 para 135

<sup>1296</sup> CIW000004; CIW000005; CIW000048\_007 para 28

<sup>1297</sup> CIW000048\_006

<sup>1298</sup> CIW000048\_010 para 48



## Local authorities

**45.** Local authorities, maintained schools and further education institutions must have regard to statutory guidance in order to meet their duties to safeguard and promote the welfare of children.<sup>1299</sup> *Keeping learners safe* places a number of duties upon local authorities in respect of safeguarding children in schools, including:

- ensuring appropriate safeguarding training is provided for staff and governors of maintained schools;
- providing supervision and support for staff with designated safeguarding roles in schools;
- providing model policies and procedures for schools on all aspects of child protection and safeguarding;
- making arrangements for overseeing allegations of abuse; and
- providing advice, guidance and support to maintained schools about dealing with individual cases.<sup>1300</sup>

### Designated lead officer

**46.** Each local authority must designate an appropriate senior officer to have lead responsibility for safeguarding in education, as set out in *Keeping learners safe* and in specific guidance regarding the oversight of investigations.<sup>1301</sup> The designated lead officer has a range of responsibilities, including overseeing investigations into allegations of abuse by adults working in schools. The headteacher must refer allegations to the designated lead officer so they can consult with children's social care and the police.<sup>1302</sup>

### Regional safeguarding children boards

**47.** There are six regional safeguarding children boards (each covers several local authority areas) which provide leadership and oversight on issues relating to safeguarding.<sup>1303</sup> Each board is a multi-agency partnership between statutory and non-statutory agencies. The boards devise regional policies and procedures, provide training, disseminate information and offer safeguarding advice and guidance for schools.

## Safeguarding roles within schools in Wales

### Headteacher and designated safeguarding person

**48.** Headteachers have day-to-day responsibility for a school, which includes responsibility for safeguarding. The headteacher also has responsibility for referring allegations of sexual abuse by staff to the local authority.

**49.** Headteachers for all schools (whether maintained or independent) have their responsibilities set out in *Keeping learners safe*, which was issued by the Welsh Government in 2015. This is statutory guidance, so schools must follow it unless there are good reasons not to do so.<sup>1304</sup>

<sup>1299</sup> Section 175 of the Education Act 2002; WGT000476\_012 paras 72–74

<sup>1300</sup> INQ006522\_015-017 paras 2.1–2.6

<sup>1301</sup> INQ006524

<sup>1302</sup> INQ006524\_007-008 paras 3.2, 4.1–4.2

<sup>1303</sup> WGT000476\_006 para 39

<sup>1304</sup> INQ006522; WGT000476\_012 paras 72–73



**50.** Each school must have a designated safeguarding person (DSP) who has lead responsibility for managing child protection concerns and cases, including harmful sexual behaviour between children.<sup>1305</sup> The role and responsibilities of the DSP are set out in detail in *Keeping learners safe*.<sup>1306</sup>

### **Governors, proprietors, trustees and boards of management**

**51.** Each maintained school in Wales must have a governing body, whose membership and responsibilities are set out in legislation.<sup>1307</sup> As in England, independent schools in Wales are not required by law to have governing bodies, although some choose to do so.<sup>1308</sup> Independent schools may be owned by a group (a proprietor body) or by an individual (sole proprietor). If there is no governing body, it is the responsibility of the proprietor (whether a sole proprietor or a proprietor body) to oversee safeguarding in the school.

**52.** The safeguarding responsibilities of governors or proprietors in maintained and independent schools are set out in the relevant statutory guidance for Wales, currently *Keeping learners safe* and *Working Together to Safeguard People*.<sup>1309</sup> These duties include:

- ensuring that effective policies and procedures are in place;<sup>1310</sup>
- ensuring that adequate training is undertaken;<sup>1311</sup> and
- giving guidance and oversight to the arrangements for child protection.

**53.** Each school with a governing body should have a designated governor for safeguarding to take responsibility for all child protection matters and to ensure annual evaluation of safeguarding policies and procedures.<sup>1312</sup> If an allegation of abuse is made against the headteacher, the chair of governors or proprietor is responsible for referring the allegation to the local authority. The governing body also has a role in exercising its disciplinary functions in respect of child protection allegations against a member of staff.<sup>1313</sup>

### **Vetting and barring**

**54.** The Disclosure and Barring Service (DBS) system of providing criminal records checks and barring of individuals who are unsuitable to work with children operates in Wales as it does in England. Schools are under an obligation to refer to the DBS any staff or volunteers who have been dismissed, resigned or retired following safeguarding allegations.

**55.** Schools in Wales are required by *Keeping learners safe* to comply with safer recruitment procedures. This means they must obtain criminal records checks and also, depending on the nature of the role, check whether the applicant has been barred from working with children or is disqualified from teaching or from holding a management role within a school. The Education Workforce Council (EWC) operates a system of qualification and mandatory registration for all teachers and learning support workers (such as teaching assistants) employed in maintained schools. Schools have access to the EWC register to check candidates.

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<sup>1305</sup> WGT000476\_018-019 para 114

<sup>1306</sup> INQ006522\_020-022 paras 2.15–2.29

<sup>1307</sup> Section 19 of the Education Act 2002; The Government of Maintained Schools (Wales) Regulations 2005

<sup>1308</sup> INQ006521

<sup>1309</sup> WGT000476\_012 paras 73–74

<sup>1310</sup> INQ006522\_018 para 2.7

<sup>1311</sup> INQ006522\_018 para 2.8

<sup>1312</sup> INQ006522\_018-019 para 2.9

<sup>1313</sup> INQ006522\_019 para 2.10; INQ006524\_011 para 9.1; INQ006523

### *Teacher misconduct*

**56.** Regulation of education staff is the responsibility of the EWC. All teachers and learning support workers in maintained schools in Wales must register with the EWC and must abide by a code of professional conduct and practice.<sup>1314</sup> Schools must notify the EWC if they have ceased to use the services of a registered person, or have terminated such arrangements because of misconduct or professional incompetence or a criminal conviction. The EWC conducts misconduct hearings and has a range of sanctions, including prohibition from teaching work.<sup>1315</sup> Teaching staff and learning support staff at independent schools in Wales are not required to register with the EWC and the EWC has no misconduct jurisdiction in relation to unregistered teachers or learning support staff.

### *Children's Commissioner for Wales*

**57.** The Children's Commissioner for Wales has existed since 2001.<sup>1316</sup> The principal role of the Commissioner is to safeguard and promote the welfare and rights of children and young people. The Commissioner seeks to influence the Welsh Government and others through the publication of reports and research. The Commissioner has the power to review the functions of various public bodies, including the Welsh Government, and to examine individual cases and assist individual children.<sup>1317</sup> Through a network of Ambassador Schools, the Commissioner runs training events for children and a programme of school visits.<sup>1318</sup>

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<sup>1314</sup> EWC000001\_001-003 paras 5–6, 15–18

<sup>1315</sup> EWC000001\_004-005 para 23

<sup>1316</sup> CFW000016\_001 para 2.2

<sup>1317</sup> CFW000016\_004 para 2.17

<sup>1318</sup> CFW000016\_002 para 2.9

# Annex 4

## Tables

**Table 1: Bodies responsible for inspecting state-funded schools**

The table below sets out the bodies responsible for inspecting state-funded schools in England and Wales and independent schools which were not members of the Independent Schools Council in England from 1944 to date.

Date	Statutory Inspectorate: <sup>a</sup> Education (England & Wales)	Statutory Inspectorate: Boarding Welfare (England)	Statutory Inspectorate: Boarding Welfare (Wales)	
1944–1989	<b>Secretary of State:</b> Education Act 1944			
1989		<b>Local authorities:</b> Children Act 1989	<b>Local authorities:</b> Children Act 1989	
1990				
1991				
1992	<b>HM Inspectorate of Schools:</b> Education (Schools) Act 1992			
1993				
1994				
1995				
1996				<b>Ofsted (England)</b> <b>Estyn (Wales)</b>
1997				
1998				
1999				
2000				
2001				
2002	<b>National Social Care Standards Commission:</b> Care Standards Act 2000	<b>Care Inspectorate Wales and predecessor organisations:</b> Inspection of Boarding Schools and Colleges (Powers and Fees) (Wales) Regulations 2002		
2003				
2004			<b>Commission for Social Care Inspection (CSCI):</b> Health and Social Care (Community Health and Standards) Act 2003	
2005				
2006				
2007–to date	<b>Ofsted:</b> Education and Inspections Act 2007			

<sup>a</sup> The Bridge Schools Inspectorate operated between 2008 and 2015 and the Schools Inspection Service operated between 2008 and 2019. These inspectorates operated under section 162(A) of the [Education Act 2002](#) and inspected the educational provision of independent schools which were not part of the Independent Schools Association.

**Table 2: Bodies responsible for inspecting independent schools**

The table below<sup>1319</sup> shows the bodies responsible for inspecting independent schools in England which are members of the Independent Schools Council in England (sometimes referred to as ‘association schools’) from 1944 to date.

Date	Statutory Inspectorate: Education	Statutory Inspectorate: Boarding Welfare	Other (non-statutory)
1944–1989	<b>Secretary of State: Education Act 1944</b>		
1989		<b>Local authorities: Children Act 1989</b>	
1990			
1991			
1992	<b>HM Inspectorate of Schools: Education (Schools) Act 1992 (Ofsted)</b>		
1993			
1994			
1995			
1996			
1997			
1998			
1999		<b>Independent Schools Inspectorate (ISI):</b> Voluntary arrangement to accredit schools to membership of an association	
2000			
2001			
2002		<b>National Social Care Standards Commission: Care Standards Act 2000</b>	
2003	<b>Independent Schools Inspectorate (ISI):</b> Approved under Education Act 2002	<b>Commission for Social Care Inspection (CSCI):</b> Health and Social Care (Community Health and Standards) Act 2003	
2004			
2005			
2006		<b>Ofsted:</b> Education and Inspections Act 2007	
2007			
2008			
2009			
2010		<b>Independent Schools Inspectorate (ISI):</b> Under section 87(3A) Children Act 1989	
2011			
2012–to date			

<sup>1319</sup> The Independent Schools Inspectorate set this table out at ISI001574\_005

**Table 3: Bodies responsible for barring adults unsuitable to work with children in education**

	Period of operation	Government department responsible	Legislation
List 99 <sup>a</sup>	1921–January 2009	Department for Education <sup>b</sup>	Regulations first issued under the Education Act 1921 <sup>c</sup>
PoCA list	October 2000–January 2009	Department of Health	Protection of Children Act 1999
Independent Safeguarding Authority (ISA)	January 2009–December 2012	Home Office <sup>d</sup>	Safeguarding Vulnerable Groups Act 2006
Disclosure and Barring Service (DBS)	December 2012–present	Home Office <sup>e</sup>	Protection of Freedoms Act 2012

<sup>a</sup> From at least 1921, the Board of Education maintained a list of teachers it had declared unsuitable to teach, although it is not clear when this list first became known as List 99. <sup>b</sup> Since 1921, the Department for Education has been known also as the Department of Education and Science, Department for Education and Skills, the Department for Education and Employment and the Department for Children, Schools and Families. <sup>c</sup> Similar regulations were issued under subsequent Education Acts, the last regulation concerning List 99 being the Education (Teachers) (Amendment) (No. 2) Regulations 1995. <sup>d</sup> The ISA was a non-departmental public body within the responsibility of the Home Secretary. <sup>e</sup> The DBS is an executive agency of the Home Office.

**Table 4: Bodies responsible for disclosure of criminal records etc**

Body	Period of operation	Department	Legislation
Police	1958–2002	Local police forces	Consolidated Circular of 1958 to the Police on Crime and Kindred Matters  Rehabilitation of Offenders Act (Exceptions) Order 1975
Criminal Records Bureau (CRB)	March 2002–December 2012	Home Office <sup>a</sup>	Police Act 1997 <sup>b</sup>
Disclosure and Barring Service (DBS)	December 2012–present	Home Office	Protection of Freedoms Act 2012

<sup>a</sup> The CRB was initially part of the Passport and Records Agency, but became an executive agency of the Home Office in its own right in September 2003. <sup>b</sup> Part V.

**Table 5: Bodies responsible for teacher misconduct**

Body	Period of operation	Department	Statute
Department for Education (Teacher Misconduct Unit)	Approximately 1921–2009	Department for Education	Not applicable
General Teaching Council of England (GTCE) <sup>a</sup>	2000–April 2012	Department for Education <sup>b</sup>	Teaching and Higher Education Act 1998
Teaching Agency	April 2012–March 2013	Executive agency of the Department for Education	Education Act 2002 <sup>c</sup> as amended by the Education Act 2011 and Teachers' Disciplinary (England) Regulations 2012
National College for Teaching and Leadership	March 2013–April 2018	Executive agency of the Department for Education	As above
Teaching Regulation Agency	April 2018–present	Executive agency of the Department for Education	As above

<sup>a</sup> The GTCE also maintained a register of qualified teachers, and provided advice to the government on a range of policy issues. <sup>b</sup> The GTCE was a non-departmental public body within the responsibilities of the Secretary of State for Education. <sup>c</sup> Sections 141A–141E and Schedule 11A of the Education Act 2002.







