

## Bulletin No. 26

From Adrian Over

### FAO All Headteachers and Designated Safeguarding Leads

Dear colleagues

Further to the two bulletins sent out in August, you will be aware that the DfE saw fit to reissue *Keeping Children Safe in Education* again on 3<sup>rd</sup> September with a number of amendments; and again on 17<sup>th</sup> September with some very minor further amendments.

I am aware of considerable frustration and disaffection amongst Heads and DSLs about the resultant need to update policies, procedures and training further, having put a lot of effort into getting those things ready for the start of the year.

I can only say that I fully share your frustration! Having spent most of the summer making the model policy and all of our training material *KCSiE 2018* ready, I was aghast when I realised they had issued an updated version on 3<sup>rd</sup> September.

There have also been amendments to the Ofsted guidance for inspectors in relation to inspecting safeguarding in accordance with the changes to *KCSiE*; and to the requirements of schools in respect of disqualification from providing childcare.

I've spent a lot of time since the start of term reviewing all of those in between all of my usual commitments.

This bulletin addresses all of the changes. Please forgive the level of detail. I have tried to capture everything you need to know together with updated policies in one place.

I'm also sending information about some new resources that we hope will be useful in relation to some of the specific safeguarding issues highlighted in Annex A of *KCSiE*.

#### 1. **Keeping Children Safe in Education (September 2018)**

Please see attached PDF of the 17/09/18 version of *KCSiE* with all of the 3/9 and 17/9 amendments highlighted in yellow for your ease of reference – several are simply changes to paragraph numbering but some are substantive.

All of the changes introduced in the original updated version issued in May 2018 remain in place.

The biggest additional updates are the references to the new safeguarding partnership, which will eventually replace the Safeguarding Children Board. I had already referred to those in the August version of the model policy but have adapted the wording in accordance with the September *KCSiE*. NB both *Working Together to Safeguard Children 2018* and *KCSiE 2018* state that schools must be fully engaged with the local safeguarding partnerships.

The useful flowchart on page 13 of the new *KCSiE* now includes the phrase 'pastoral care' for the first time, which I think is an acknowledgement of the many simple ways in which

schools support children and their families even before the need to initiate an early help assessment.

There is an interesting change of language in this latest *KCSiE* from 'professionals' to 'practitioners', which I have also reflected in the model policy.

There are references to GDPR and the Data Protection Act 2018 in *KCSiE* along with the updated guidance on information sharing – please see [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721581/Information\\_sharing\\_advice\\_practitioners\\_safeguarding\\_services.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_services.pdf)

I have adapted the model policy to take account of those references and have consulted Guy Darvill of WCC Legal Services about those adaptations, particularly in relation to parents requesting access to their children's school child protection records.

There are also references in *KCSiE* to updated guidance for schools on disqualification from providing childcare – see below.

NB both the amended guidance on disqualification and *KCSiE* say that schools should remind all staff, **not just those working with under-8s**, that their 'relationships and associations' (including online) may have an implication for the safeguarding of pupils, and if there are concerns about that, the school should be told. Schools should include this guidance in relevant policies and ensure that staff understand their duty.

I have therefore adapted the model staff behaviour policy to reflect that requirement – please also see attached.

NB please also note the new requirement as in para 159 that referrals should be made to the DBS when an individual is removed from working in regulated activity, **which could include being suspended or redeployed into work that is not regulated activity**, i.e. the requirement includes **temporary** decisions to stop somebody working in regulated activity and is not restricted to when somebody is dismissed or you make a decision to stop using their services.

## 2. **Disqualification under the Childcare Act 2006**

On 31/08/18, the DfE updated its statutory guidance for schools about the employment of staff disqualified from providing childcare '*Disqualification under the Childcare Act 2006*'. Schools are strongly advised to read that statutory guidance – please see: <https://www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006/disqualification-under-the-childcare-act-2006>

In essence, the guidance and requirements of schools remain unchanged with one very important exception: staff working in schools can no longer be disqualified from providing childcare **by association**, i.e. because an individual with whom they share a household is disqualified from providing childcare. Disqualification by Association now only applies on domestic premises.

However, it must be emphasised that Disqualification under the Childcare Act 2006 still applies to adults working in schools with children up to and including reception during the school day and those working in a childcare capacity with children up to 8 years old in before and after school provision, whether they are paid, volunteers or on work placements.

All previous requirements and guidance in relation to those individuals remain unchanged, i.e. disqualification from childcare still applies as it did before – just not by association.

Schools must therefore no longer ask about the cautions or convictions of someone living or working in a member of staff's household. (It should be noted that other statutory

guidance may be relevant where the third party lives on the school premises, such as in boarding schools.)

*KCSiE 2018 states in paragraph 116: "For staff who work in childcare provision or who are directly concerned with the management of such provision, the school needs to ensure that appropriate checks are carried out to ensure that individuals are not disqualified under the Childcare (Disqualification) Regulations 2009".*

The guidance states that schools are free to decide how to bring these requirements to the attention of their staff. As a means of making staff aware of their duty to provide such information, they may, for example, choose to include a section in the school's safeguarding policy, or another policy document, or by means of an addition to new staff members' contracts of employment. Schools should draw the guidance to the attention of their staff as well as the information provided by Ofsted referenced in the guidance. Schools will need to review any historic data collected and destroy any information which is no longer required.

Ofsted and the Independent School Inspectorates will check the management of Disqualification under the Childcare Act as part of their routine school inspection process.

### **What should schools do?**

- i. Inform staff of the changes, and record the date that they were informed. A letter or Email might be best.
- ii. Ensure that this information is included in the Safeguarding and Child Protection Policy; and in the Safer Recruitment Policy.
- iii. Identify and record which staff are covered by Disqualification under the Childcare Act 2006 (including volunteers and people on work placements). **Warwickshire County Council advice to Primary schools is still that teachers, teaching assistants, lunchtime supervisors, other support staff such as Learning Mentors, volunteers and members of the school's leadership team who are ordinarily deployed to work with children over eight years but who are likely on occasions to work with children of Reception age during the school day (e.g. covering absence, playground duty, supervising lunch time, organising school concerts/ performances) or with children under 8 years in before or after school provision; should be considered as within the scope of this guidance.**
- iv. Ask relevant staff to self-declare that they are not disqualified under the Childcare Act 2006. **(A form is not necessary)**. [An Enhanced DBS Certificate will confirm this for new staff; for existing employees schools could consider using the DBS Update Service to supplement any employee self-declaration.]
- v. **Remind all staff about the expectation to inform the school where their relationships and associations, both within and outside of the workplace (including online), may have implications for the safeguarding of children in the school.**
- vi. **Remind all staff that if their circumstances change they must inform the school.**
- vii. Decide whether these self-declarations will be kept on the Single Central Record or elsewhere.
- viii. Review any historic data collected and destroy any information which is no longer required.

### **Other issues raised by the guidance**

In relation to staff employed by childcare providers (not employed by the school or local authority) who hire or rent school facilities or premises (for example a private, voluntary or independent childcare provider), schools should ensure that such providers have appropriate policies and procedures in place in regard to safeguarding children.

Where centrally employed local authority staff are deployed to work in relevant childcare settings in schools (for example peripatetic music teachers or individuals supporting children with additional needs) it is the responsibility of the local authority to ensure that

such staff are compliant with the requirements of the legislation explained in the guidance.

Where schools or local authorities use staff from any agency, or third-party organisation (for example a supply teacher, music teacher or sports coach) to work in relevant childcare provision, or contract out such childcare, they must obtain confirmation that the agency or organisation providing the staff has informed them that they will be committing an offence if they are deployed to work in relevant childcare, or are directly concerned in the management of such provision, if they are disqualified under the 2018 regulations. This should include the provider requesting that their staff inform them if they consider that they could be disqualified under the legislation.

3. **Inspecting safeguarding in early years, education and skills settings**

Please find attached an annotated version of this Ofsted guidance for inspectors, which has been updated in line with the updated *KCS/E* and disqualification guidance.

Again, I have highlighted changes in yellow for your ease of reference.

In particular, the Ofsted guidance highlights and clarifies the following, which are important to take note of and make adjustments accordingly:

- i. Annex 2 states very clearly “*If a school or college allows an individual to start work in regulated activity before the DBS certificate is available, it should ensure that the individual is appropriately supervised and that all other checks are completed to ensure that the individual is not barred by the DBS.*”

This reiterates the point that even when deciding not to undertake an Enhanced DBS check because a member of staff is transferring directly from another school or to allow a member of staff to start work before the DBS certificate is available, the school must ensure that the individual is ‘*appropriately supervised*’ and that a Barred List check has been undertaken.

In other words, a Barred List check must be undertaken even when an Enhanced DBS check is not undertaken or is unavailable. Failure to do so could lead the school to commit a criminal offence if it allows somebody who is barred from working in regulated activity to do so.

It is left for schools to determine what ‘*appropriately supervised*’ means.

- ii. Para 19 states that inspectors should consider evidence of whether DSLs are “*aware of local plans for the transition to new multi-agency arrangements led by the three safeguarding partners and act as the main point of contact with the safeguarding partners*”.

I have just today secured a commitment from the new Safeguarding Board Development Manager to provide schools with a briefing about the proposed transition and new safeguarding partnership arrangements. It is safe to say that at the present time, discussions between the partners are only just underway.

- iii. There is a significant change in what is expected of training providers who arrange for trainee teachers and students to undertake placements in schools. The guidance now states: “*In the case of trainee teachers and students on placement, if they are employed by the setting, school or college, then they should be subject to the same checks under regulations as other members of staff. If trainee teachers are fee-funded, the school or setting should obtain written confirmation from the training provider that these checks have been carried out and that the trainee has been judged by the provider to be suitable to work with children. There is no requirement for a school to record details of fee-funded trainees on the single central record.*”

This clarifies an ongoing dispute between some schools and training providers about the latter disclosing any concerns arising from checks to the school so that the school can form its own judgement about the suitability of the student to work with children.

iv. There is a welcome emphasis on inspectors “*making sure that children and learners are taught how to recognise risk and know where to go for help when they need it*” as opposed to children being taught how to keep themselves safe, which implied that children are somehow responsible for keeping themselves safe from abuse and neglect.

4. **Updated model child protection & safeguarding policy**

As a result of all of the above, you will appreciate that it has been necessary to update further the model child protection policy. Please find attached.

Please note that I have highlighted the amendments from the August version in lilac text for ease of reference. The August amendments remain highlighted in red.

5. **Updated model staff behaviour policy**

Please also find attached a slightly updated version of the staff behaviour policy, amending references to statutory guidance and the Data Protection Act.

I have also added and highlighted in lilac font some material at the end of section 7 ‘*Standards of Behaviour*’ to reflect the requirements in the guidance on disqualification from providing childcare for all staff to inform the school about any matter in or out of school that may have implications for the safeguarding of children in school.

6. **‘Making sense of relationships’**

New NSPCC resource including lesson plans:

[https://learning.nspcc.org.uk/research-resources/schools/making-sense-relationships/?utm\\_source=Adestra&utm\\_medium=email&utm\\_content=Making%20sense%20of%20relationships.&utm\\_campaign=nitl-newsletter](https://learning.nspcc.org.uk/research-resources/schools/making-sense-relationships/?utm_source=Adestra&utm_medium=email&utm_content=Making%20sense%20of%20relationships.&utm_campaign=nitl-newsletter)

This provides PSHE lesson plans for key stages 2-4 on personal safety and healthy relationships created by the NSPCC and the PSHE Association. Lessons cover: transition to secondary school; online safety and online friendships; consent; sexualised behaviour; unhealthy relationships; and sharing sexual images. It includes a guide for teachers on creating a safe learning environment for the lessons, what to do if they receive a disclosure and where to signpost young people for help. The lessons have been quality assured by the PSHE Association and they link with the PSHE Association Programme of Study. Although they refer to statutory and non-statutory guidance for schools in England, the contents are equally relevant and suitable for use in all parts of the UK.

7. **‘Are you a young person with a family member in prison?’**

Publication produced by Action for Prisoners’ Families -

<https://www.nicco.org.uk/userfiles/downloads/5ad4850cb565e-action-for-prisoners-families-young-peoples-booklet.pdf>

This contains a lot of useful material for staff awareness and training on the impact on children of having a family member in prison. It is aimed at children and young people aged 10 years plus with a family member in prison. It explores some of the issues young people may face throughout the offender journey such as keeping in touch, telling friends, and what to do at school. It includes really profound quotes from young people who have a parent/sibling in prison, highlighting how many children worry about the relative in prison potentially taking their own life and try to keep in touch and reinforce their love as a way to protect them.

8. **Guidance on County Lines**

On 17<sup>th</sup> September, the Home Office issued new guidance for front line workers on the criminal exploitation of children and young people, referred to as 'County Lines'. Please see information from Safe in Warwickshire, which provides links to the guidance and resources including promotional posters to raise the awareness of young people and staff: <https://safeinwarwickshire.com/2018/10/11/home-office-updates-county-lines-guidance-resources/>

I trust all of that is helpful

Many thanks for your ongoing support and commitment to safeguarding children in our schools

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