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Adrian Over

## FAO All Head teachers and Designated Safeguarding Leads

Dear Colleagues,

You are no doubt aware that the statutory Independent Inquiry into Child Sexual Abuse (IICSA) was established to investigate whether public bodies and other non-state institutions have taken seriously their duty of care to protect children from sexual abuse in England and Wales. Many schools may not be aware of the requirement to retain information of relevance to IICSA and may be disposing of information contrary to the Inquiries Act 2005. Local Authorities have been asked to make contact with all educational institutions and draw their attention to the retention guidance. For further information about the Inquiry and the guidance, please access this [link](#).

We are therefore writing to schools to clarify the current requirements both in the light of existing statutory guidance *Keeping Children Safe in Education 2016* and the additional requirements of the IICSA.

This is a complex area, so we are grateful for detailed advice from Warwickshire County Council Legal Services in drafting the following guidance:

As previously advised, *KCSiE (Annex B)* requires that safeguarding records in respect of individual children should be transferred to the new school or education provider when a child moves from one school/setting to another.

In respect of the management of allegations against adults that work with children, part 4 of *Keeping Children Safe in Education 2016* states that

*'Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.'* (para 170)

*'The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer.'* (para 171)

[NB: Further to para 170, in relation to allegations found to have been malicious, it is important that schools retain a record of the investigation and actions taken separate from

the individual's personnel records. This is so that evidence of the investigation and response is available in the event of the allegation resurfacing at a later stage or a subsequent enquiry into the school's management of allegations; but the information is not held on the individual's personnel record so that it cannot be mentioned inappropriately or inadvertently in an employment reference provided subsequently.]

The scope of the IICSA requires the retention of all records relating directly or indirectly to the sexual abuse of children or to child protection and care. This includes retaining any records that you have relating to any allegations of child sexual abuse or child sexual exploitation, anything that you might hold with regard to individuals having any sexual interest in any child and, far wider, any records you have at all relating to child protection, such as green forms, minutes of child protection meetings, e-mails concerning child safeguarding and so on.

The position of Warwickshire County Council is that schools should retain all safeguarding records in relation to the management of allegations against staff and volunteers as above, even those relating to subsequently discredited allegations, in case they are required by the IICSA.

However, it remains our advice that individual child protection files should be transferred to a child's new school and there is no need for the child's former school to retain copies so long as they hold a clear record of where the records have been sent. However, **no child protection records should be destroyed by any party** until IICSA completes its work, which is likely to be a number of years away.

This does mean a **temporary suspension** of the requirement to destroy child protection records on the 25<sup>th</sup> birthday of a former pupil (although this will continue to apply for non-child protection records). We are aware that schools are in general very good at retaining safeguarding records and therefore we hope that this will not be an overly onerous task.

We trust that this advice is useful. If you are in any doubt about what information needs to be retained or disposed of, please do not hesitate to seek further advice from Adrian Over or Warwickshire County Council Legal Services.

With thanks for your ongoing commitment to safeguarding children in Warwickshire schools.

Kind regards

Adrian Over  
Education Safeguarding Manager

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**Education Safeguarding Service:**

Adrian Over  
Education Safeguarding Manager  
07966 224 286 or 01926 742525

Ann Seal  
Taking Care Scheme Manager (Protective  
Behaviours):  
01926 742523 or 07745 655906

Linda Fenn  
ESS Team Administrator/PA  
01926 742525 or 07717 891064

Sophie Morley  
ESS Training Administrator  
01926 742601 or 07747 758712