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Adrian Over

FAO All Head teachers and Designated Safeguarding Leads

Dear Colleagues,

It has been brought to my attention several times that there is a growing tendency for schools to engage the services of self-employed as well as agency specialist tutors/coaches/teachers, particularly for music and sport.

You will be aware of the statutory requirements in relation to DBS checks etc in Part 3 of *Keeping Children Safe in Education 2015 & 2016*. As you know, the key requirements are set out in para 116 of *KCSiE 2016*, i.e:

'Schools and colleges must obtain written notification from any agency, or third-party organisation they use that the organisation has carried out the checks (in respect of the enhanced DBS certificate written notification that confirms the certificate has been obtained by either the employment business or another such business), on an individual who will be working at the school or college that the school or college would otherwise perform. Where the position requires a barred list check this must be obtained, by the agency or third-party prior to appointing that individual. The school must also check that the person presenting themselves for work is the same person on whom the checks have been made.'

I am aware that some tutors and coaches are not employed by 3rd party providers but are self-employed. Unfortunately, *KCSiE 2016* says very little about self-employed contractors. Para 137 states:

'If a contractor working at a school or college is self-employed, the school or college should consider obtaining the DBS check, as self-employed people are not able to make an application directly to the DBS on their own account.'

However, para 136 explicitly states that *'Under no circumstances should a contractor in respect of whom no checks have been obtained be allowed to work unsupervised, or engage in regulated activity.'*

In view of the expectations stated in *KCSiE 2016* in respect of the safeguarding responsibilities of all staff and the importance of safeguarding induction and training, I would strongly advise all schools to consider all of the following:

- Self-employed and 3rd party music and sports tutors/coaches that you allow onto your school premises to work directly with children are in Regulated Activity, i.e. they have the opportunity of unsupervised contact with young people in your school on a regular basis, unless you deploy a member of staff to work alongside and thereby supervise them at all times
- Where anybody is in Regulated Activity, whether self-employed or employed by a 3rd party, it is clearly imperative to ensure that she/he is the subject of an Enhanced DBS check with a Barred List check as a minimum. Schools should undertake the checks if the individual is self-employed.
- Please do not assume that 3rd parties will have provided their staff with safeguarding training or any sort of induction. Best practice would be to ensure that all self-employed and 3rd party staff who will be working with young people in your school receive the same robust safeguarding induction that your staff receive in accordance with statutory guidance. As a minimum, that should include access to your child protection & safeguarding policy and your staff behaviour (code of conduct) policy; establishing the principle and expectation that safeguarding is everybody's responsibility, including them; explanation of how safeguarding concerns should be recorded and reported (e.g. green forms) to a DSL and the identity of DSLs; signs and symptoms of abuse; and how to respond appropriately to disclosures of abuse by children
- When discussing your staff behaviour (code of conduct) policy, please make sure you highlight and discuss issues such as appropriate professional boundaries, touch, appropriate language and conversations when talking to students, contact with students outside school including via ICT, social media etc
- Explain your ICT Acceptable Use policy, particularly in reference to tutors' use of personally owned ICT equipment, photographs, video recordings etc.
- Maintain a culture of ongoing vigilance, supervising self-employed/3rd party staff to the same level you would your own staff and ensuring that students have ways of reporting any concerns they have about the behaviour of self-employed/3rd party staff.

Some 3rd party providers are of course very conscientious and as well as undertaking the requisite pre-employment checks do provide their staff with safeguarding training. As an example, some schools use the services of an organisation called ONSIDE-COACHING, which recently approached us with a request for training, as a result of which we were able to arrange training for all of their staff last week, which I delivered in conjunction with a sports coach who is also an accredited safeguarding trainer for sports organisations.

However, it would always be best practice to ask 3rd party provider organisations to confirm in writing what safeguarding induction and training their staff are provided with in addition to them undertaking the requisite pre-appointment checks. Ask for dates and copies of certificates as evidence that training has been provided and that it is current.

Furthermore, it would be best practice to include self-employed and 3rd party provider staff who work regularly in your school in whole staff safeguarding training events and briefings and to pay them to attend those events as appropriate.

Most importantly, it is important to recognise that self-employed tutors and coaches **may never have undertaken any safeguarding training**. Some may never have been employed by an organisation which would or would not have required them to undertake training and may never previously have considered the importance of

safeguarding for their role. You will appreciate the high importance of providing any such individual with a robust safeguarding induction and subsequent training.

I trust that you will find this advice useful.

With best wishes for the summer holiday,

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