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Inspecting safeguarding in early years, education and skills settings

Guidance for inspectors undertaking inspection under the common inspection framework

This guidance is for use from September 2015 and remains in draft until that point. Minor amendments may be made to the text prior to September.

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Introduction

1. This guidance sets out the key points inspectors need to consider when inspecting safeguarding in education, skills and early years settings. It needs to be read alongside the common inspection framework and the individual inspection remit handbooks.[1]

Safeguarding and inspectors' responsibilities

2. Ofsted's aim is to ensure safe and secure provision for children and learners across all remits through effective inspection and regulation. Safeguarding the welfare of children and learners is part of Ofsted's core business for all staff, who are expected to be aware of their responsibilities in this regard. Inspectors must be familiar with the document 'Safeguarding children and young people and young vulnerable adults policy'.[2] All inspectors must be aware of what to do in the event of having concerns about the safeguarding and welfare of a child or learner or receiving allegations of a safeguarding nature.

3. Early years settings, schools and further education and skills providers should be safe environments where children[3], young people and vulnerable adults can learn and develop. Inspectors should consider how well leaders and managers in early years settings, schools or further education and skills providers have created a culture of vigilance where children's and learners' welfare is promoted and where timely and appropriate safeguarding action is taken for children or learners who need extra help or who may be suffering, or likely to suffer, significant harm.

4. Inspectors must evaluate how well early years settings, schools, colleges and other further education and skills providers[4] fulfil their statutory and other responsibilities and how well staff exercise their professional judgement in keeping children and learners safe.

5. It is **essential** that inspectors are familiar with the content of the following key documents.

   - The Department for Education's (DfE) statutory guidance for schools[5] and colleges,[6] 'Keeping children safe in education',[7] which came into force in

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[1] *Common inspection framework: education, skills and early years from September 2015*, Ofsted, June 2015; www.gov.uk/government/publications/common-inspection-framework-education-skills-and-early-years-from-september-2015.
[2] *Safeguarding children and young people and young vulnerable adults policy*, Ofsted, 2015; www.gov.uk/government/publications/ofsted-safeguarding-policy.
[3] 'Children' includes everyone under the age of 18.
[4] Institutions in the further education sector (Section 91(3) of the Further and Higher Education Act 1992). For expectations on further education and skills providers that are not colleges, see Annex 4.
[5] The guidance applies to all schools (whether maintained, non-maintained or independent), including academies, free schools, pupil referral units and maintained nursery schools.

April 2014 and was updated in March 2015. It sets out the responsibilities placed on schools and colleges to safeguard and promote the welfare of children.

- The statutory guidance 'Working together to safeguard children',[8] which applies to organisations and professionals who provide services to children. The guidance was updated in March 2015 and now makes clear that it applies in full to schools.
- 'Prevent duty guidance for England and Wales: guidance for specified authorities in England and Wales on the duty of schools and other providers in the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism', HM Government, 2015.[9] Guidance on Prevent for further education and skills providers will be published in time for the start of the 2015/16 academic year. Information will be available on the Education and Training Foundation's website.[10]

6. Inspectors of independent schools should be familiar with the content of:

- the Education (Independent School Standards) Regulations 2014.[11]

7. Inspectors of schools and early years provision should be familiar with the content of the following key documents:

- 'Statutory framework for the early years foundation stage: setting the standards for learning, development and care for children from birth to five', DfE, 2014[12]
- 'Disqualification under the Childcare Act 2006. Statutory guidance for local authorities, maintained schools, independent schools, academies and free schools', DfE, 2015.[13]

Definition of safeguarding

8. In relation to children and young people, safeguarding and promoting their welfare is defined in 'Working together to safeguard children' as:

- protecting children from maltreatment
- preventing impairment of children's health or development

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[6] The guidance applies to further education colleges and sixth form colleges and relates to young people under the age of 18, but excludes 16 to 19 academies and free schools (which are required to comply with relevant safeguarding legislation by virtue of their funding agreement).
[7] *Keeping children safe in education*, Department for Education, 2015; www.gov.uk/government/publications/keeping-children-safe-in-education--2.
[8] www.gov.uk/government/publications/working-together-to-safeguard-children--2.
[9] www.gov.uk/government/publications/prevent-duty-guidance.
[10] www.preventforfeandtraining.org.uk/.
[11] www.legislation.gov.uk/uksi/2014/3283/contents/made.
[12] www.gov.uk/government/publications/early-years-foundation-stage-framework--2.
[13] www.gov.uk/government/publications/disqualification-under-the-childcare-act-2006.

- ensuring that children are growing up in circumstances consistent with the provision of safe and effective care
- taking action to enable all children to have the best outcomes.

9. In relation to adults, there is a different legislative and policy base for responding to their safeguarding needs. However, most of the principles and procedures that apply are the same as those for safeguarding children and young people.

10. Safeguarding action may be needed to protect children and learners from:

- neglect
- physical abuse
- sexual abuse
- emotional abuse
- bullying, including online bullying and prejudice-based bullying
- racist, disability and homophobic or transphobic abuse
- gender-based violence/violence against women and girls
- radicalisation and/or extremist behaviour
- child sexual exploitation and trafficking
- the impact of new technologies on sexual behaviour, for example sexting
- teenage relationship abuse
- substance misuse
- issues that may be specific to a local area or population, for example gang activity and youth violence
- domestic violence
- female genital mutilation
- forced marriage
- fabricated or induced illness
- poor parenting, particularly in relation to babies and young children
- other issues not listed here but that pose a risk to children, young people and vulnerable adults.

11. Safeguarding is not just about protecting children, learners and vulnerable adults from deliberate harm, neglect and failure to act. It relates to broader aspects of care and education, including:

- Children's and learners' health and safety and well-being
- the use of reasonable force
- meeting the needs of children and learners with medical conditions
- providing first aid
- educational visits
- intimate care and emotional well-being
- online safety[14] and associated issues
- appropriate arrangements to ensure children's and learners' security, taking into account the local context.

The signs of successful safeguarding arrangements

12. When inspecting safeguarding, inspectors will need to use their professional judgement about the extent to which arrangements in a setting are having a positive impact on the safety and welfare of children and learners. This list is intended to help inspectors arrive at those judgements.

13. In settings that have effective safeguarding arrangements, there will be evidence of the following:

- Children and learners are protected and feel safe. Those who are able to communicate know how to complain and understand the process for doing so. There is a strong, robust and proactive response from adults working with children and learners that reduces the risk of harm or actual harm to them. Adults working with them know and understand the indicators that may suggest that a child, young person or vulnerable adult is suffering or is at risk of suffering abuse, neglect or harm[15] and they take the appropriate and necessary action in accordance with local procedures and statutory guidance.
- Leaders and managers have put in place effective safeguarding and staff behaviour policies that are well understood by everyone in the setting.
- Staff and other adults working within the setting are clear about procedures where they are concerned about the safety of a child or learner and there is

[14] The term 'online safety' reflects a widening range of issues associated with technology and a user's access to content, contact with others and behavioural issues.
[15] This includes the risk of or actual sexual exploitation, radicalisation, running away, bullying, accidents, neglect and abuse.

a named and designated lead who is enabled to play an effective role in pursuing concerns and protecting children and learners.[16]

- Children and learners can identify a trusted adult with whom they can communicate about any concerns. They report that adults listen to them and take their concerns seriously. Where children or learners have been or are at risk, such a trusted adult has been instrumental in helping them to be safe in accordance with agreed local procedures. Children who are unable to share their concerns, for example babies and very young children, form strong attachments to those who care for them through the effective implementation of the key person system.
- Written records are made in a timely way and held securely where adults working with children or learners are concerned about their safety or welfare. Those records are shared appropriately and, where necessary, with consent.
- Any child protection and/or safeguarding concerns are shared immediately with the local authority or other relevant agency in the area where the concerned professional is working and a record of that referral is retained. There is evidence that any agreed action following the referral has been taken promptly to protect the child or learner from further harm. There is evidence, where applicable, that staff have an understanding of when to make referrals when there are issues concerning sexual exploitation, radicalisation and/or extremism or that they have sought additional advice and support. Children and learners are supported, protected and informed appropriately about the action the adult is taking to share their concerns. Parents are made aware of concerns and their consent is sought in accordance with local procedures unless doing so would increase the risk of or actual harm to a child.
- There is a written plan in place that has clear and agreed procedures to protect a child. For children who are the subject of a child in need plan or child protection plan or who are looked after, the plan identifies the help that the child should receive and the action to be taken if a professional working with the child has further concerns or information to report.
- Children who go missing from the setting they attend receive well-coordinated responses that reduce the harm or risk of harm to them. Risks are well understood and their impact is minimised. Staff are aware of, and implement in full, local procedures for children who are missing from home and/or from education. Local procedures for notifying the local authority and parents are available, understood and followed. Comprehensive records are held and shared between the relevant agencies to help and protect children. In relation to early years settings, providers are aware of and implement the

[16] *Keeping children safe in education*, paragraphs 36 and 37, sets out who the designated safeguarding lead should be and what they should do; www.gov.uk/government/publications/keeping-children-safe-in-education--2.

requirements of the 'Statutory framework for the Early Years Foundation Stage' when children go missing while in the care of the provider.[17]

- Any risks associated with children and learners offending, misusing drugs or alcohol, self-harming, going missing, being vulnerable to radicalisation or being sexually exploited are known by the adults who care for them and shared with the local authority children's social care service or other relevant agency. There are plans and help in place that are reducing the risk of harm or actual harm and there is evidence that the impact of these risks is being minimised. These risks are kept under regular review and there is regular and effective liaison with other agencies where appropriate.
- Children and learners are protected and helped to keep themselves safe from bullying, homophobic behaviour, racism, sexism and other forms of discrimination. Any discriminatory behaviours are challenged and help and support are given to children about how to treat others with respect.
- Adults understand the risks posed by adults or learners who use technology, including the internet, to bully, groom, radicalise or abuse children or learners. They have well-developed strategies in place to keep children and learners safe and to support them to develop their own understanding of these risks and in learning how to keep themselves and others safe. Leaders oversee the safe use of technology when children and learners are in their care and take action immediately if they are concerned about bullying or children's well-being. Leaders of early years settings implement the required policies with regard to the safe use of mobile phones and cameras in settings.
- Leaders and staff make clear risk assessments and respond consistently to protect young babies, children and learners while enabling them to take age-appropriate and reasonable risks as part of their growth and development.
- Children and learners feel secure and, where they may present risky behaviours, they experience positive support from all staff. Babies and young children demonstrate their emotional security through the attachments they form with those who look after them and through their physical and emotional well-being. Staff respond with clear boundaries about what is safe and acceptable and they seek to understand the triggers for children's and learners' behaviour. They develop effective responses as a team and review those responses to assess their impact, taking into account the views and experiences of the child or learner.
- Positive behaviour is promoted consistently. Staff use effective de-escalation techniques and creative alternative strategies that are specific to the individual needs of children and learners. Reasonable force, including

[17] *Statutory framework for the early years foundation stage (from 1 September 2014)*, Department for Education, updated July 2014; www.gov.uk/government/publications/early-years-foundation-stage-framework--2.

restraint,[18] is only used in strict accordance with the legislative framework to protect the child and learner and those around them. All incidents are reviewed, recorded and monitored and the views of the child or learner are sought and understood. Monitoring of the management of behaviour is effective and the use of any restraint significantly reduces or ceases over time.

- Staff and volunteers working with children and learners are carefully selected and vetted according to statutory requirements. There is monitoring to prevent unsuitable people from being recruited and having the opportunity to harm children or learners or place them at risk.
- There are clear and effective arrangements for staff development and training in respect of the protection and care of children and learners. Staff and other adults receive regular supervision and support if they are working directly and regularly with children and learners whose safety and welfare are at risk.
- The physical environment for babies, children and learners is safe and secure and protects them from harm or the risk of harm.
- All staff and carers have a copy of and understand the written procedures for managing allegations of harm to a child or learner. They know how to make a complaint and understand policies on whistleblowing and how to manage other concerns about the practice of adults in respect of the safety and protection of children and learners.

Evidence to look for when inspecting safeguarding arrangements

14. This section provides guidance on the evidence inspectors should look for when reviewing safeguarding arrangements in a setting. The guidance is not exhaustive and should be read in conjunction with the relevant inspection handbook.

15. Inspectors should look for evidence of five main aspects of the setting's safeguarding arrangements:

- the extent to which leaders, governors and managers create a positive culture and ethos where safeguarding is an important part of everyday life in the setting, backed up by training at every level
- the application and effectiveness of safeguarding policies and safe recruitment and vetting processes
- the quality of safeguarding practice, including evidence that staff are aware of the signs that children or learners may be at risk of harm either within the setting or in the family or wider community outside the setting

[18] *Use of reasonable force in schools*, Department for Education, July 2013; www.gov.uk/government/publications/use-of-reasonable-force-in-schools.

- the timeliness of response to any safeguarding concerns that are raised
- the quality of work to support multi-agency plans around the child or learner.

Inspecting how effectively leaders and governors create a safeguarding culture in the setting

16. Inspectors should consider how well leaders and managers in schools, further education and skills providers and early years settings have created a culture of vigilance where children's and learners' welfare is promoted and timely and appropriate safeguarding action is taken for children or learners who need extra help or who may be suffering or likely to suffer significant harm.

17. Inspectors should evaluate how well schools, colleges and early years settings fulfil their statutory responsibilities and how well staff exercise their professional judgement in keeping children and learners safe.

18. Inspectors will want to consider evidence that:

    - leaders, governors and supervisory bodies (where appropriate) fulfil legislative requirements, such as those for disability, safeguarding, and health and safety
    - safeguarding policies and procedures are in place and regularly reviewed to keep all children and learners safe
    - children and learners feel safe
    - staff, leaders, governors and supervisory bodies (where appropriate) and volunteers receive appropriate training on safeguarding that is updated regularly and know their responsibilities with respect to the protection of children, young people and vulnerable adults
    - staff are supported to have a good awareness of the signs that a child or learner is being neglected or abused, as described in 'What to do if you're worried a child is being abused'[19]
    - there is a designated senior member of staff in charge of safeguarding arrangements who has been trained to the appropriate level and understands their responsibilities with respect to the protection of children, young people and vulnerable adults and the safeguarding of all learners; for designated members of staff in schools and colleges this training should take place every two years[20]
    - the setting identifies children or learners who may be at risk

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[19] *What to do if you're worried a child is being abused: advice for practitioners*, Department for Education, March 2015; www.gov.uk/government/publications/what-to-do-if-youre-worried-a-child-is-being-abused--2.

[20] See *Keeping children safe in education*, paragraphs 36 and 37; www.gov.uk/government/publications/keeping-children-safe-in-education--2.

- absences are followed up, including appropriate checks when children and learners stop attending the setting
- action is taken to raise awareness of children and learners in relation to a range of safeguarding matters, including domestic abuse or sexual exploitation
- there is a clear approach to implementing the Prevent duty and keeping children and learners safe from the dangers of radicalisation and extremism
- the setting takes effective action to prevent and tackle discriminatory and derogatory language – this includes language that is derogatory about disabled people, and homophobic and racist language
- children and learners are able to understand, respond to and calculate risk effectively, for example risks associated with child sexual exploitation, domestic violence, female genital mutilation, forced marriage, substance misuse, gang activity, radicalisation and extremism,[21] and are aware of the support available to them
- staff, leaders and managers understand the risks posed by adults or young people who use the internet to bully, groom or abuse children, young people and vulnerable adults; there are well-developed strategies in place to keep learners safe and to support them in learning how to keep themselves safe
- staff, leaders and managers oversee the safe use of electronic and social media by staff and learners and take action immediately if they are concerned about bullying or risky behaviours
- appropriate arrangements are made with regards to health and safety to protect staff and learners from harm
- the setting's premises provide a safe learning environment with secure access.

Inspecting arrangements for staff recruitment and vetting

19. Ofsted expects early years settings, schools and further education and skills providers to be able to demonstrate that they meet all regulations and duties for the purposes of the safeguarding judgement under leadership and management in the inspection handbook for the appropriate remit.

20. Inspectors should check the single central record early in the inspection in the expectation that it will be complete and meet statutory requirements.[22] During early years inspections, inspectors will check that the provider is able to produce evidence of suitability of relevant staff and adults.

[21] This also includes risks associated with e-safety, substance misuse, knives and gangs, relationships (including sexual relationships), water, fire, roads and railways.
[22] In the case of further education and skills providers, the requirement to have a single central record applies only to colleges (see footnote 4 and annex 4).

21. Inspectors should also check the setting's policy and procedures for ensuring that visitors to the school are suitable and checked and monitored as appropriate, for example external speakers at school assemblies.

22. If there is a **minor** administrative error on a single central record, such as the absence of a date on the record, and this can be easily rectified **before** the final team meeting, the school or college will be given the chance to resolve the issue. Registered early years providers are expected to make all records available at inspection. If evidence of suitability is not kept on-site, inspectors can accept this evidence later during the inspection as long as it is provided before final feedback is given.

23. Ofsted has established a definition for 'administrative errors' in relation to the single central record (see below). No allowance will be made, for example, for breaches to the requirements for the Disclosure and Barring Scheme (DBS) disclosures.

24. Administrative errors may be defined as follows:

- failure to record one or two dates
- individual entries that are illegible
- one or two omissions where it is clear that the information is already held by the school or college but the school or college has failed to transfer over the information in full to the single central record.

25. Inspectors are **not** expected to make enquiries as to whether any member of staff is disqualified. However, inspectors should ascertain that the provider or school knows their legal obligations and has effective systems in place to find out information about whether a person may be disqualified.

26. To employ a disqualified person knowingly constitutes an offence. Should an inspector become aware that a member of staff is or may be disqualified and has not been granted a waiver, the matter must be considered when making the judgement on the effectiveness of safeguarding.

27. Where an early years setting, school or college has recruited volunteers who are not checked, inspectors should explore with senior leaders and governors how the registered provider or school has reached this decision – for example how it has assessed the level of supervision provided. 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. Where trainee teachers are fee-funded, the school or setting should obtain details of the checks undertaken by the training provider. The training provider must be open about any information it holds on its students and share it appropriately before the student begins any placement.

Inspecting the quality of safeguarding practice

28. Inspectors should look for evidence that the early years setting, school or college is implementing its safeguarding policy and processes effectively and keeping them under review. As well as ensuring that children and learners are safeguarded while on the premises, the setting should be proactive about anticipating and managing risks that children and learners face in the wider community. The setting should adhere to any locally agreed arrangements for safeguarding children.

29. Where a child is currently receiving services or support from children's social care services and is subject to a multi-agency plan, inspectors should explore the role, actions and participation of the early years setting, school or further education and skills provider in working in partnership with external agencies regarding any concerns.

Inspecting arrangements for handling serious incidents and allegations

30. On all inspections, the lead inspector **must** check whether there have been any safeguarding incidents or allegations since the last inspection that have either been resolved or that are ongoing. The purpose of this is to establish whether there is any information that could impact on the judgement of the effectiveness of safeguarding or any other aspect of the inspection that needs to be included in the report. Of particular relevance are the questions as to: (a) whether the early years setting, school or further education and skills provider has responded in a timely and appropriate way to concerns or allegations; and (b) how effectively the early years setting, school or further education and skills provider has worked in partnership with external agencies regarding any concerns. This should be done early in the inspection, if possible.

Arriving at judgements about safeguarding arrangements

31. The impact of safeguarding arrangements will be tested under the common inspection framework judgement on the quality of leadership and management and also its impact on the personal development, behaviour and welfare of children and learners. Inspectors will arrive at a judgement as to whether the early years provider, school or further education and skills provider has effective safeguarding arrangements or not. This judgement will contribute towards the overall judgement on the effectiveness of leadership and management.

32. Judgements must not be made solely on the basis of what is seen during the inspection. Inspectors must take into account a range of evidence to evaluate the effectiveness of safeguarding arrangements over an extended period.

33. Inspectors will also consider the extent to which leaders, managers and governors ensure that arrangements to protect children and learners meet statutory requirements, promote their welfare and prevent radicalisation and extremism. The evidence for this will contribute to the inspectors' evaluation of the effectiveness of safeguarding. Evidence gathered in relation to attendance, behaviour – for example bullying – and how well children and learners understand how to keep themselves safe may also contribute, to a greater or lesser degree, to this judgement. Staff in settings need to be particularly sensitive to signs that may indicate possible safeguarding concerns. These could include, for example, poor or irregular attendance, persistent lateness, children missing from education, forced marriage or female genital mutilation.

34. Inspectors will make a judgement on the personal development, behaviour and welfare of children and learners by evaluating, where applicable, the extent to which the provision is successfully promoting and supporting children's and learners' safety. In order to make this judgement, inspectors will consider, among other things, children's and learners' understanding of how to keep themselves safe from relevant risks such as exploitation and extremism, including when using the internet and social media. Inspectors should include online safety in their discussions with pupils and learners (covering topics such as online bullying and safe use of the internet and social media). Inspectors should investigate what the school or further education and skills provider does to educate pupils in online safety and how the provider or school deals with issues when they arise.

35. In relation to early years, inspectors should consider how staff promote young children's understanding of how to keep themselves safe from relevant risks and how this is monitored across the provision.

36. When judging the effectiveness of safeguarding procedures in independent school inspections, inspectors must take into account whether or not the school meets all the paragraphs in part 2 (spiritual, moral, social and cultural development of pupils), part 3 (welfare, health and safety of pupils), part 4 (suitability of staff, supply staff and proprietors) and part 5 (premises of and accommodation at schools) of the independent school standards.[23]

Inspecting and reporting on safeguarding concerns

37. Safeguarding concerns may arise during an inspection or may be brought to the attention of an inspector or Ofsted about an early years setting, school or further education and skills provider being inspected. Particular concerns may include the following:

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[23] The Education (Independent School Standards) Regulations 2014; www.legislation.gov.uk/uksi/2014/3283/contents/made.

- delay or negligence in passing on concerns about a child or learner at risk of or suffering significant harm to the relevant agencies
- circumstances where a member of staff is suspended and there is currently a safeguarding investigation taking place
- failure to follow statutory requirements or locally agreed procedures for dealing with allegations against staff
- failure to adhere to the legal duty to refer to the DBS a member of staff who has harmed, or poses a risk of harm to, a child.

38. When reporting on these issues, inspectors must take care not to write anything that might lead to identification of an individual child or learner or of a member of staff who might be under investigation. Inspectors must be mindful that where a particular matter is under investigation it is not proven. It is also important that the inspection report should not contain information that might raise undue concerns among parents and the wider public that the children and learners in general are unsafe. There are instances when a member of staff may be absent because she or he has been suspended pending a safeguarding investigation. Parents or other staff may not be aware of these circumstances and are most unlikely to be aware of any detail.

39. If a safeguarding issue is already known by Ofsted, then the lead inspector, if unsure of what action to take, should seek guidance in advance of the inspection. Evidence should be recorded as part of the inspection planning to provide a clear audit trail.

40. Inspectors should ensure that they are aware of information available to the public, reported in the press or accessible on the internet, including that available on the early years setting, school or further education and skills provider's website, if available. This may contain information related to safeguarding. Inspectors should do a check on the internet as part of their pre-inspection planning to see whether there are any safeguarding issues that may need to be followed up during inspection. All evidence that relates to planning for the inspection should be recorded.

41. Inspectors should give careful consideration to the judgements relating to the effectiveness of safeguarding, when it is known that a member of staff has been convicted of sexual offences.

Reporting on evidence or allegations of child abuse, including serious incidents

42. If, in the course of an inspection, inspectors come across evidence or allegations of child abuse, the lead inspector should report the concerns using the following wording:

‘Concerns raised by some children or young people or vulnerable adults/a child or young person or vulnerable adult/some parents/one parent during the inspection are being examined by the appropriate bodies.’

43. It is not the job of an inspector to investigate a child protection concern or an allegation against a member of staff. Inspectors should, however, satisfy themselves that appropriate referrals have been made in response to any concerns.

44. In cases where Ofsted has become aware of an investigation by another agency into a serious incident or serious allegations involving a setting or provider that Ofsted is inspecting, it may be appropriate for the inspection report to make a brief reference to the investigation. This should be done in such a way that avoids the risk of prejudicing the outcome of the investigation or identifying individuals who may be wholly innocent of the alleged wrongdoing. Any references will be confined to the most serious incidents, such as the death of a child or a serious safeguarding failure. Inspectors should avoid making any reference to a serious incident if there is any possibility that doing so would prejudice such an investigation or prejudge the outcomes or breach confidentiality or where the reference could risk identifying individuals subject to or related to the investigation. If reference is to be made, it should be clear that Ofsted is not coming to any determination on the concerns raised.

45. Inspectors should note that the restrictions in this guidance apply to what may be reported in the published inspection report about active, external investigations, not to what may be included as lines of enquiry in the inspection. Inspectors are required and remain free to comment on any matter they think is relevant to the quality of the care provided as long as it is based on the inspection evidence.

Sentences to include in inspection reports when an investigation is in progress

46. Where relevant and appropriate, given the particular circumstances, the lead inspector should give careful consideration to and seek advice about the insertion of specific text in the ‘Information about this setting or school’ section of the report template. Before using the sentences below, inspectors must consider whether reporting on an incident might cause prejudice to an ongoing investigation or inappropriately identify an individual. If there is any doubt, inspectors must seek advice on the wording to be used.

A serious case review that involves the setting

‘Inspectors were aware during this inspection that a serious incident that occurred at the setting since the previous inspection is under investigation by the appropriate authorities. While Ofsted does not have the power to investigate incidents of this kind, actions taken by the setting in response to the incident(s) were considered (where appropriate) alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

An investigation into the death or serious injury of a child at the setting or while in the care of staff

'Inspectors were aware during this inspection that a serious incident that occurred at the setting/while in the care of staff employed by the setting [for example during an educational visit – amend as appropriate] since the previous inspection is under investigation by the appropriate authorities. While Ofsted does not have the power to investigate incidents of this kind, actions taken by the setting in response to the incident(s) were considered (where appropriate) alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

47. In situations where the incident concerns a child or pupil, or former child or pupil, of the early years setting or school, but the incident did not take place in the setting, the following form of words could be used:

'Inspectors were aware during this inspection of a serious incident concerning a child or pupil/former child or pupil [delete as appropriate] that had occurred since the previous inspection. While Ofsted does not have the power to investigate incidents of this kind, actions taken by the setting in response to the incident(s) were considered (where appropriate) alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

An investigation into alleged child protection failings

'Inspectors were aware during this inspection that serious allegations of a child protection nature were being investigated by the appropriate authorities. While Ofsted does not have the power to investigate allegations of this kind, actions taken by the setting in response to the allegations(s) were considered (where appropriate) alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

A police investigation into the use of restraint/restriction of liberty at the setting

'Inspectors were aware during this inspection of a police investigation into serious allegations about restriction of liberty at the setting. While Ofsted does not have the power to investigate allegations of this kind, actions taken by the setting in response to the allegation(s) were considered (where appropriate) alongside the other evidence available at the time of the inspection to inform inspectors' judgements.'

Annex 1. Safeguarding requirements for leaders and managers

Governing bodies, registered providers, proprietors and management committees must ensure that they comply with their safeguarding duties under legislation. They must ensure that the policies, procedures and training in their early years settings, schools or colleges are effective and comply with the law at all times.

The responsibilities placed on governing bodies, registered providers, proprietors and management committees include:

- their contribution to inter-agency working to support children and learners who have additional needs
- having due regard to the need to prevent people from being drawn into terrorism in accordance with the Counter-Terrorism and Security Act 2015
- carrying out reasonable checks, for example for links with extremism, on all visitors who are intending to work with children, learners and/or staff or to address assemblies
- ensuring that an effective child protection policy is in place, together with a staff behaviour policy, where applicable
- appointing a designated safeguarding lead and, in schools and colleges, ensuring that they should undergo child protection training every two years
- prioritising the welfare of children and learners and creating a culture where staff are confident to challenge senior leaders over any safeguarding concerns
- making sure that children and learners are taught how to keep themselves safe.

Governing bodies, registered providers, proprietors and management committees should prevent people who pose a risk of harm from working with children or learners by:

- adhering to statutory responsibilities to check staff who work with children and learners
- taking proportionate decisions on whether to ask for checks beyond those that are required
- ensuring that volunteers are appropriately supervised
- making sure that, in relation to maintained schools, at least one person on any appointment panel has undertaken safer recruitment training
- ensuring that there are procedures in place to handle allegations against members of staff and volunteers
- making sure that there are procedures in place to handle allegations against other children or learners

- putting in place appropriate safeguarding responses to children and learners who go missing from early years and education settings, particularly on repeat occasions.

Governing bodies, registered providers, proprietors and management committees should ensure that allegations against members of staff and volunteers are referred to the local authority's designated officer(s) involved in the management and oversight of allegations against people who work with children.[24] There must be procedures in place to make a referral to the Disclosure and Barring Service (DBS) if a person in regulated activity has been dismissed or removed due to safeguarding concerns or would have been removed had they not resigned. This is a legal obligation and failure to do so is a criminal offence. For example, it is a criminal offence for an employer knowingly to take on an individual in a DBS-regulated activity (such as schools or childcare) who has been barred from such an activity. Governing bodies of maintained schools and proprietors of academies must appoint a designated teacher to promote the educational achievement of children who are looked after and ensure that this person has appropriate training. Governing bodies, registered providers, proprietors and management committees should ensure that staff have the skills, knowledge and understanding necessary to keep looked after children safe.

Early years providers, schools leaders and further education and skills providers should create a culture of safe recruitment that includes the adoption of recruitment procedures that help deter, reject or identify people who might abuse children and learners. Governing bodies, registered providers and proprietors must act reasonably in making decisions about the suitability of prospective employees.

It is the registered provider, proprietor or governing body's responsibility to ensure that safe recruitment checks are carried out in line with statutory requirements, using the DfE guidance. There is no requirement to carry out retrospective checks on current staff – the necessary checks are those that were in force at the time the appointment was made.

Schools and colleges **must** keep a single central record. The record must cover the following people:

- all staff (including supply staff) who work in the school; in colleges, this means those providing education to children and learners
- all others who work in regular contact with children in the school or college, including volunteers who have been checked
- for independent schools, including academies and free schools, all members of the proprietorial body.

[24] This person was and may still be known as the local authority designated officer (LADO).

Registered early years providers must keep the required information above, as set out in the 'Statutory framework for the Early Years Foundation Stage', although they are not required to keep this information as a single central record.

It is the registered provider's or school's responsibility to ensure that all the staff they employ in specified early or later years childcare have had the appropriate checks. This includes ensuring that staff working in early and later years settings are suitable to do so. The 'Statutory framework for the Early Years Foundation Stage' sets out the disqualification requirements that early years providers must meet. School inspectors should also be aware of the statutory guidance 'Disqualification under the Childcare Act 2006' that was issued in February 2015. This statutory guidance applies to governing bodies of maintained schools, including maintained nursery schools, and proprietors of non-maintained and independent schools (including academies and management committees of pupil referral units.

Governing bodies, proprietors and management committees must ensure that they are not knowingly employing a person who is disqualified under the School Staffing (England) Regulations 2009 in connection with relevant early years provision. In gathering information to make these decisions, they must ensure that they act proportionately and minimise wherever possible the intrusion into the private lives of their staff and members of their household. Disqualification also includes relevant staff working in early or later years provision or those who are directly concerned with the management of such provision who are disqualified 'by association'. A person is automatically disqualified if they live in the same household as another person who is disqualified or in a household where a disqualified person is employed. The statutory guidance lists the categories of staff covered by the legislation.

A disqualified person may apply to Her Majesty's Chief Inspector for a waiver of disqualification for most grounds of disqualification. Ofsted has published a factsheet setting out how to make a waiver application, which is available from the Ofsted website.[25]

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[25] *Applying to waive disqualification: early years and childcare provision*, Ofsted, September 2014, www.gov.uk/government/publications/applying-to-waive-disqualification-early-years-and-childcare-providers.

Annex 2. Disclosure and Barring Service[26] checks, Secretary of State prohibition orders and pre-appointment checks

The level of DBS check required, and whether a prohibition check is required, will depend on the role and duties of an applicant to work in an early years setting, school or college. For most appointments, an enhanced DBS check with barred list information will be appropriate as the majority of staff will be engaging in regulated activity as defined in the Safeguarding Vulnerable Groups Act 2006, schedule 4, part 1.[27]

In a school or college, a supervised volunteer who regularly teaches or looks after children is not in regulated activity. The DfE has published separate statutory guidance on supervision and regulated activity that schools and colleges should have regard to when considering which checks should be undertaken on volunteers.[28]

When the DBS has completed its check, a DBS certificate is sent to the applicant. The applicant must show the certificate to their potential employer before they take up post or as soon as practicable afterwards. Alternatively, if the applicant has subscribed to it and gives permission, the early years setting, school or college may undertake an online update check through the DBS Update Service.

If an early years setting, 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 have been completed.

No further checks are required for any staff unless the person has a break in service of more than three months.[29] However, an early years setting, school or college may request an enhanced DBS check with barred list information should there be concerns and bearing in mind the duty early years settings, schools and colleges are under not to allow a barred person to work in regulated activity.

Prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited from teaching must not be appointed to work as a teacher in such a setting.

An offer of appointment to a successful candidate, including one who has lived or worked abroad, must be conditional on satisfactory completion of pre-employment checks. More information about how to conduct these checks is in the DfE guidance.

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[26] For more information see the DBS website: www.gov.uk/government/organisations/disclosure-and-barring-service.

[27] www.legislation.gov.uk/ukpga/2006/47/schedule/4.

[28] See Annex D of *Keeping children safe in education;* www.gov.uk/government/publications/keeping-children-safe-in-education--2.

[29] Please note that extended sickness/maternity leave does not constitute a break of service.

Annex 3. The single central record

Generally, the information to be recorded by schools or other providers on individuals is whether or not the following checks have been carried out or certificates obtained and the date on which the checks were completed:

- an identity check
- a barred list check
- an enhanced DBS check/certificate
- a prohibition from teaching check
- further checks on people living or working outside the UK
- a check of professional qualifications
- a check to establish the person's right to work in the UK.

For supply staff, schools and other providers should also include whether written confirmation has been received that the employment business supplying the member of supply staff has carried out the relevant checks and obtained the appropriate certificates, whether any enhanced DBS check certificate has been provided in respect of the member of supply staff and the date that confirmation was received.[30]

Details of the records that must be kept are contained in:

- for maintained schools: Regulations 12(7) and 24(7) and Schedule 2 to the School Staffing (England) Regulations 2009 and the School Staffing (England) Amendment Regulations 2013 (applied to pupil referral units through the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007)
- for independent schools (including academies and free schools): Part 4 of the Schedule to the Education (Independent School Standards) Regulations 2014 applies
- for colleges: Regulations 20–25 and the Schedule to the Further Education (Providers of Education) (England) Regulations 2006[31] apply
- for non-maintained special schools: Regulation 3 and Paragraph 6 of Part 1 and Paragraph 16 of Part 2 of the Schedule to the Education (Non-Maintained Special Schools) (England) Regulations 2011 apply.

If a school or college has concerns about an existing staff member's suitability to work with children or learners, it should carry out all relevant checks as if the person were a new member of staff. Similarly, if a person working at the school or college moves from a post that was not regulated activity into work that is regulated activity,

[30] Independent schools and non-maintained special schools should also include the date on which any certificate was obtained.
[31] Sixteen to 19 academies and free schools are covered through their funding agreements.

the relevant checks for the regulated activity must be carried out. Apart from these circumstances, the school or college is not required to request a DBS check or barred list check. The only requirement for those appointed before March 2002 is that they must have been List 99 checked. DBS checks became mandatory for the entire maintained schools' workforce from 12 May 2006 (September 2003 for independent schools, including academies).

While registered early years providers are not required to keep a single central record, they are still required to obtain the relevant information to confirm suitability of those caring for children. The requirements are set out in the 'Statutory framework for the Early Years Foundation Stage' and are referenced earlier in this document.

Annex 4. Safeguarding requirements in further education and skills providers that are not colleges

The following extracts from 'Working together to safeguard children' apply to voluntary organisations and private sector providers in the further education sector.

> 'Voluntary organisations and private sector providers play an important role in delivering services to children. They should have the arrangements described in paragraph 4 of this chapter in place in the same way as organisations in the public sector, and need to work effectively with the LSCB [Local Safeguarding Children Board].'[32]

Chapter 2, paragraph 4 of 'Working together to safeguard children' states that:

> 'These organisations should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children, including:

- a clear line of accountability for the commissioning and/or provision of services designed to safeguard and promote the welfare of children
- a senior board level lead to take leadership responsibility for the organisation's safeguarding arrangements
- a culture of listening to children and taking account of their wishes and feelings, both in individual decisions and the development of services
- clear whistleblowing procedures, which reflect the principles in Sir Robert Francis's Freedom to Speak Up review and are suitably referenced in staff training and codes of conduct, and a culture that enables issues about safeguarding and promoting the welfare of children to be addressed
- arrangements which set out clearly the processes for sharing information, with other professionals and with the Local Safeguarding Children Board (LSCB)
- a designated professional lead (or, for health provider organisations, named professionals) for safeguarding. Their role is to support other professionals in their agencies to recognise the needs of children, including possible abuse or neglect. Designated professional roles should always be explicitly defined in job descriptions. Professionals should be given sufficient time, funding, training, supervision and support to fulfil their child welfare and safeguarding responsibilities effectively
- safe recruitment practices for individuals whom the organisation will permit to work regularly with children, including policies on when to obtain a criminal record check

[32] *Working together to safeguard children*, Chapter 2, paragraph 43.

- appropriate supervision and support for staff, including undertaking safeguarding training:
  - employers are responsible for ensuring that their staff are competent to carry out their responsibilities for safeguarding and promoting the welfare of children and creating an environment where staff feel able to raise concerns and feel supported in their safeguarding role
  - staff should be given a mandatory induction, which includes familiarisation with child protection responsibilities and procedures to be followed if anyone has any concerns about a child's safety or welfare
  - all professionals should have regular reviews of their own practice to ensure they improve over time
- clear policies in line with those from the LSCB for dealing with allegations against people who work with children. An allegation may relate to a person who works with children who 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; or behaved towards a child or children in a way that indicates they may pose a risk of harm to children.'

In addition:

> 'Arrangements should be put in place to ensure that any allegations about those who work with children are passed to the local authority designated officer, or team of officers, without delay.'

For providers with funded contracts for the provision of education and/or training from either or both of the Education Funding Agency and the Skills Funding Agency, a range of contractual obligations apply with respect to the safeguarding and protection of learners to which these providers should adhere.

Annex 5. Inspection and health and safety, particularly in further education and skills providers

Ofsted often receives questions about inspectors' approach to inspecting health and safety. Providers want to find out whether Ofsted expects to see rigorous health and safety checks on inspection; the extent to which inspectors check health and safety documentation for learners on work placements; and if Ofsted conducts a health and safety audit.

Ofsted is not a health and safety authority and it is not responsible for auditing health and safety standards within the learning environment. However, inspectors have a duty to take prompt and proportionate action and to report significant health and safety risks affecting learners that are identified during the course of an inspection.

Inspection visits to vocational workshops or learners' workplaces are primarily to observe a teaching or training session or an assessment and to evaluate learners' standards of work. However, during the course of an inspection, inspectors may also identify good or poor health and safety practices as they affect learners and their areas of work. For example, inspectors will check if the correct personal protective equipment is being worn on a construction site or if learners are using correct procedures for storing knives in a catering kitchen.

Subject specialist inspectors should have a working knowledge of the relevant guidance from the Health and Safety Executive. However, inspectors are not health and safety experts and cannot be expected to have the detailed knowledge which appropriately qualified specialists in this field possess.

Any learning environment or work placement must be fit for purpose and properly planned and evaluated to ensure that it meets appropriate standards and learners' needs. Nevertheless, inspections should not be regarded as health and safety audits, although inspectors will adopt a proportionate approach to checking that the employer has appropriate health and safety systems in place and will identify significant health and safety issues affecting learners where they arise.

The responsibilities of the provider and the employer with respect to health and safety in the context of work experience[33]

Inspectors will have regard to new guidance from the Health and Safety Executive about the relative responsibilities of the training provider and the employer, which emphasises the following:

- the employer has primary responsibility for the health and safety of the learner and should be managing any risks

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[33] The Health and Safety Executive guidance is available at www.hse.gov.uk/youngpeople/workexperience/index.htm.

- the training provider should take reasonable steps to satisfy itself that the employer is managing the risks
- the training provider should keep checks in proportion to the level of risk, which will vary in relation to the type of working environment involved
- the provider should avoid seeking paperwork for assurance purposes, using an exchange of emails or correspondence to provide an audit trail if this is needed.