



Alfreton Park Community Special School

Safeguarding Children and Safer Recruitment in Education

This document sets out the responsibilities of all local authorities, schools and Further Education (FE) colleges in England to safeguard and promote the welfare of children and young people. It sets out recruitment best practice, some underpinned by legislation, for the school, local authority, and FE education sectors. This guidance is also relevant for supply agencies who supply staff to the education sector, contractors who work in education establishments responsible for under 18s, as well as other providers of education and training for those under 18 funded by the Learning and Skills Council (LSC). The document also details the process for dealing with allegations of abuse against staff. This guidance does not cover the requirements of the new vetting and barring scheme to be introduced under the Safeguarding Vulnerable Groups Act 2006. These will be phased in from 2008, and updated guidance will be prepared in due course. This guidance replaces:

- *Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service;*
- *Criminal Records Bureau: Managing the Demand for Disclosures;*
- *Safeguarding Children in Education;*
- *Safeguarding Children: Safer Recruitment and Selection in Education Settings;*
- *Dealing with Allegations of Abuse against*

Teachers and Other Staff (November 2005). It also replaces the guidance contained in *Checks on Supply Teachers* which was issued in September 2004, Circular 7/96, *Use of Supply Teachers*, and in the associated *Guidance Notes for Teacher Employment Businesses and Agencies*.

Chapter 1 provides brief information on the responsibilities of local authorities, schools and FE colleges and details of relevant legislation. It confirms the scope and audience for the guidance and sets out details of superseded documents.

Executive Summary

Chapter 2 sets out the responsibilities of local authorities, schools of all kinds and FE colleges to safeguard and promote the welfare of children. It provides guidance on the organisational and management arrangements which need to be put in place to safeguard children in the education service. It supports educational organisations in delivering their responsibilities under sections 175 and 157 of the Education Act 2002 and replaces the guidance issued in September 2004 as *Safeguarding Children in Education*. Annex A at the end of the document provides a wide range of guidance and advice to those in the education service on safeguarding and promoting the welfare of children and details of where to access further advice and guidance on those issues.

Chapter 3 provides guidance on safer recruitment and selection in education settings. This includes recruitment and selection best practice, other human resources processes that help to recruit candidates who have the skills, knowledge and aptitudes to work, whether paid or unpaid, in the education services and to deter, reject or identify people who are unsuitable. It sets out all the steps in the process and briefly describes the recruitment and vetting checks required. This supports the delivery of the on-line training course produced by the National College for School Leadership and replaces the guidance, *Safeguarding Children: Safer Recruitment and Selection in Education Settings*, issued in June 2005.

Chapter 4 provides detailed guidance on the recruitment and vetting checks to be made in education settings. It sets out what checks **must** be undertaken and for which staff whether paid or unpaid and what checks **should** be undertaken and for which staff whether paid or unpaid. It provides detailed guidance to support the delivery of the recruitment and selection processes set out in Chapter 3. It replaces:

Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service issued in May 2002; *Criminal Records Bureau: Managing the Demand for Disclosures* issued in December 2002; *Checks on Supply Teachers* which was issued in September 2004; and Circular 7/96, *Use of Supply Teachers*.

Chapter 5 provides guidance on handling allegations of abuse against teachers and other staff or volunteers in the education service. This guidance was first issued to the education service in November 2005 and, covering the whole of the children's workforce, it forms Appendix 5 of *Working Together to Safeguard Children* issued in April 2006.

There then follow an annex and a number of appendices which support this guidance, including flowcharts to assist schools and FE colleges with the recruitment and checking process.

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A Shared Objective

1.1. Everyone in the education service shares an objective to help keep children and young people safe by contributing to:

- providing a safe environment for children and young people to learn in education settings; and
- identifying children and young people who are suffering or likely to suffer significant harm, and taking appropriate action with the aim of making sure they

are kept safe both at home and in the education setting.

1.2. Achieving this objective requires systems designed to:

- prevent unsuitable people working with children and young people;
- promote safe practice and challenge poor and unsafe practice;
- identify instances in which there are grounds for concern about a child's welfare, and initiate or take appropriate action to keep them safe; and
- contribute to effective partnership working between all those involved with providing services for children and young people.

1.3. The purpose of this guidance is to help local authorities, schools of all kinds, and FE colleges make sure they have effective safeguarding systems in place. It is also good practice and relevant for other LSC funded providers.

The Scope of this Guidance

1.4. This guidance sets out the safeguarding responsibilities of local authorities, schools (references to schools throughout the document also apply to pupil referral units), and FE colleges. It also provides recruitment best practice for use by these and other organisations such as supply agencies that supply staff to the education sector, contractors and other LSC funded providers. It is not guidance about what action an individual should take to safeguard a child about whom there are concerns. That guidance is contained in the separate publication,

Chapter 1: Introduction

What To Do If You're Worried A Child Is Being Abused.

References in this guidance to a child, children, or children and young people, are references to people who are under 18 years of age.

Audience

1.5. This guidance applies in England only. It is for local authorities in their education functions, pupil referral units, governing bodies and head teachers of maintained schools (including aided and foundation schools), governing bodies and head teachers of non-maintained special schools, proprietors and head teachers of independent schools (including academies, and city technology colleges), and corporations and principals of FE colleges (including sixth form colleges). It should also be read by staff within those organisations that have a lead responsibility for safeguarding children and/or for the recruitment and selection of staff or the management of staff. It also provides recruitment best practice guidance for supply agencies supplying staff to the education sector, and for contractors working in the education sector and for other LSC funded providers.

Relevant Legislation

1.6. There are a number of statutory provisions that have a bearing on this area, either directly or indirectly. The most important are:

- Section 17 of the Children Act 1989 – puts a duty on local authorities to safeguard and promote the welfare of children within their area who are in need and to provide a range and level of services appropriate to those children's needs;

- Section 27 of the Children Act 1989 – requires local authorities and other organisations to assist in the exercise of functions, including those under s17;
- Section 47 of the Children Act 1989 – requires local authorities to make child protection enquiries if they have reasonable cause to suspect a child in their area is suffering or is likely to suffer significant harm, and for local authorities and other organisations to assist them with those enquiries if asked to do so;
- Section 175 of the Education Act 2002 – requires local education authorities and the governing bodies of maintained schools and FE colleges to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children. In addition, those bodies must have regard to any guidance issued by the Secretary of State in considering what arrangements they need to make for the purpose of that section;
- Section 157 of the Education Act 2002 and The Education (Independent Schools Standards) (England)

¹ *What to Do If You're Worried A Child Is Being Abused* Summary issued by six Government Departments May 2003, and updated 2006

Regulations 2003 – require proprietors of independent schools (including academies and city technology colleges) to have arrangements to safeguard and promote the welfare of children who are pupils at the school;

- The Non-Maintained Special Schools Regulations 1999 – require the governing bodies of non-maintained special schools to make arrangements for safeguarding and promoting the health, safety and welfare of pupils at the school as approved by the Secretary of State;
- Section 10 of the Children Act 2004 places a duty on each local authority to make arrangements with relevant agencies to cooperate to improve the well-being of children;
- Section 11 of the Children Act 2004 places a duty on local authorities to make arrangements to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children;
- Section 13 of the Children Act 2004 places a duty on children's services authorities to establish Local Safeguarding Children Boards (LSCBs).

While schools and FE colleges are not statutory board partners, the LSCB should include representatives of such other relevant bodies as the local authority consider should be represented on it. The guidance contained in *Working Together to Safeguard Children* for LSCBs² makes it clear that schools and FE colleges should be involved in the work of the LSCB. Copies of the relevant chapter can be downloaded from:

www.teachernet.gov.uk/childprotection/guidance.htm

1.7. Other legislation relevant to this guidance is:

- the Rehabilitation of Offenders Act 1974;
- Section 142 of the Education Act 2002;
- Section 15 of the Teaching and Higher Education Act 1998;
- Part V of the Police Act 1997;
- Section 6 of the Protection of Children Act 1999;
- Sections 35 and 36 of the Criminal Justice and Court Services Act 2000;
- Data Protection Act 1998.

1.8. Other relevant regulations:

- Education (School Teachers Qualifications)(England) Regulations 2003;
- Education (Specified Work and Registration) (England) Regulations 2003;

- The Education (Prohibition from Teaching or Working with Children) Regulations 2003, as amended;
- The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, as amended;
- The School Staffing (England) (Amendment) Regulations 2003 as amended;
- The Further Education (Providers of Education) (England) Regulations 2006;
- Subject to Parliamentary process, regulations are also proposed for independent schools, non-maintained special schools, and pupil referral units.

General

1.9. This document is one of the pieces of guidance issued by the Secretary of State to which local authorities, governing bodies and proprietors must have regard for the purpose of s175 and s157 of the 2002 Act.

1.10. Failure to have arrangements in place as required by s175 (or s157 where that applies), or to have regard to this guidance, may be grounds for the Secretary of State to take action against a local authority, governing body, or proprietor.

1.11. All educational establishments and local authorities are subject to inspection by Ofsted, and/or other relevant inspectorates, and the organisation's performance in regard to their responsibility to safeguard and promote the welfare of children in accordance with the relevant legislation and guidance will form part of the inspectorate's judgement of the organisation or establishment's overall performance. Performance in this area will be judged by not only the existence of procedures but also their effectiveness in terms of safeguarding children from harm.

1.12. This guidance and information was up to date at the time of issue, November 2006. The version of this guidance available on the Department's website will be updated as further or amended information and guidance becomes available.

Action Required

1.13. Employers and educational institutions engaged with the provision of education services to children and young people should note the information contained in this guidance, and take the necessary action. There are legal obligations for employers and educational institutions in these areas and these are highlighted in the guidance. Where there is a legal requirement, the term "must" is used, and where something is strongly advised, the term "should" is used.

1.14. Separate guidance is available for childcare providers. Regulations apply 14 national standards and supporting criteria to all registered childcare providers. These can be found at [http://www.surestart.gov.uk/improving quality/ensuringquality/standardsregulation](http://www.surestart.gov.uk/improving%20quality/ensuringquality/standardsregulation). Guidance for childcare providers on meeting the national standards is available from Ofsted at www.ofsted.gov.uk for childminders and for day care providers including nurseries, playgroups and crèches.

Further Information

1.15. This guidance replaces:

- *Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service;*
- *Criminal Records Bureau: Managing the Demand for Disclosures;*
- *Safeguarding Children in Education;*
- *Safeguarding Children: Safer Recruitment and Selection in Education Settings;*
- *Dealing with Allegations of Abuse against Teachers and Other Staff (November 2005)*

- It also replaces the guidance contained in *Checks on Supply Teachers* which was issued in September 2004, Circular 7/96, *Use of Supply Teachers* and in the associated *Guidance Notes for Teacher Employment Businesses and Agencies*.

Status: **Statutory/strongly recommended**

Date of Issue: November 2006 Ref: DfES2006

Annex and Appendices

1.16. This guidance is supported by a number of appendices and an annex which give additional detail on aspects of this guidance:

Annex A: Safeguarding Children – additional guidance and advice supported by the following three appendices:

Appendix 1 – Relevant Guidance;

Appendix 2 – Broad Areas of Responsibility Proposed for Local Authority Lead Officers and Specific Issues Within Those Areas; and

Appendix 3 – Broad Areas of Responsibility Proposed for the Designated Senior Person for Child Protection.

There then follow a number of other appendices:

Appendix 4 – Recruitment and Selection Checklist;

Appendix 5 – Recruitment Process Flowchart;

Appendix 6 – Agency Staff/Contractors Flowchart;

Appendix 7 – Volunteers Flowchart;

Appendix 8 – Permission to Work and Documents for Overseas Staff;

Appendix 9 – The Criminal Records Bureau Disclosure Service;

Appendix 10 – Reporting Individuals to the Secretary of State;

Appendix 11 – Guidance for Employment Agencies supplying Staff to Schools and FE Colleges;

Appendix 12 – Criminal Justice and Court Services Act 2000;

Appendix 13 – Volunteer Case Studies;

Appendix 14 – Extended Work Experience and Child Protection – Supplementary DfES Guidance for Work Experience Organisers.

Introduction

2.1. Part 1 of this chapter gives guidance about the effect of the duty to have arrangements about safeguarding and promoting the welfare of children introduced by section 175 of the Education Act 2002 which came into force on 1 June 2004.

2.2. Part 2 of the chapter supplements the guidance in *Working Together To Safeguard Children*³ by setting out the infrastructure and arrangements that need to be in place to ensure that people in the education service have the skills, means and training necessary to ensure children and young people are protected from harm. It does not prescribe detailed procedures, but aims to specify the outcomes that organisations need to secure to enable staff to meet the objective of keeping children safe from harm, and what needs to be done or put in place to achieve this.

2.3. It is not guidance about what action an individual should take to safeguard a child about whom there are concerns. That guidance is contained in the separate publication, *What To Do If You're Worried A Child Is Being Abused*⁴.

2.4. References in this guidance to a child, children, or children and young people, are references to people who are under 18 years of age.

PART 1

Safeguarding and Promoting Welfare

2.5. Safeguarding and promoting the welfare of children is defined for the purposes of this guidance as:

- protecting children from maltreatment;
- preventing impairment of children's health or development;
- ensuring that children are growing up in circumstances consistent with the provision of safe and effective care; and
- undertaking that role so as to enable those children to have optimum life chances and to enter adulthood successfully.

2.6. For local authorities, schools and FE colleges, safeguarding therefore covers more than the contribution made to child protection in relation to individual children. It also encompasses issues such as pupil health and safety, and bullying, about which there are specific statutory requirements and a range of other issues, e.g. arrangements for meeting the medical needs of children with medical conditions,

2.7. Where there are statutory requirements, local authorities and establishments should have in place policies and procedures that satisfy those and comply with any guidance issued by the Secretary of State. Similarly, arrangements about matters on which the Secretary of State has issued guidance should be evidenced by policies and procedures that are in accordance with that guidance or achieve the same effect. Authorities, governing bodies, and proprietors also need to be able to show that they have considered whether children, including individual children, in their area of establishment have any specific safeguarding needs in addition to those covered by guidance, and if so, that they have policies and procedures in place to meet those needs

2.8. The duties imposed by s175 of the Education Act 2002 (and s157 in relation to safeguarding pupils in independent schools) had not been included in statute previously. The provisions of s175 (and the safeguarding provision of s157), make explicit the responsibility of local authorities, governing bodies and proprietors for safeguarding and promoting the welfare of children as part of fulfilling their common law duty of care towards the children for whom their organisation or establishment is responsible.

2.9. These provisions underpin and reinforce the common law duty of care and sit alongside other statutory responsibilities in this area, for example for health and safety and dealing with bullying. They enable the Secretary of State to enforce compliance, and mean that local authorities, governing bodies, and proprietors must have arrangements in accordance with the guidance given by the Secretary of State.

2.10. The responsibility for making sure these arrangements are in place is put on the local authority, on the governing bodies of maintained schools (and nonmaintained special schools) and FE colleges, and on the proprietors of independent schools (including academies and city technology colleges). There is no population. direct liability on individuals except where the proprietor of an independent school happens to be an individual.

2.11. Although the legislation appertaining to this chapter does not put duties on head teachers, or other members of staff, and does not make them liable for a failure to have arrangements or to have regard to the guidance, head teachers and other members of staff are responsible for carrying out their duties in compliance with the arrangements made by the local authority, governing body, or proprietor. Enforcing individuals' compliance with those arrangements is a matter for the employer under existing disciplinary procedures.

Chapter 2:

Safeguarding Children in Education

Summary

This chapter is about the duty of local authorities in their education functions, schools of all kinds, and FE colleges to have arrangements for carrying out their functions with a view to safeguarding and promoting the welfare of children under sections 175 and 157 of the Education Act 2002. It is supported by a website that includes examples of good practice and model policies for education establishments to use at:

www.teachernet.gov.uk/childprotection

Part 1 discusses the duty of local authorities and education establishments with regard to safeguarding and promoting the welfare of children.

Part 2 sets out the roles and responsibilities of local authorities, governing bodies, proprietors of independent schools, head teachers, principals and people with designated responsibility for child protection in making arrangements to enable people in the education service to play their full part in safeguarding children from abuse and neglect. Annex A to the guidance contains relevant information about safeguarding children including specific child protection issues, and links to further and more detailed advice and guidance about those issues.

providing first aid, school security, drugs and substance misuse, etc. about which the Secretary of State has issued guidance.

There may also be other safeguarding issues that are specific to the local area or

PART 2

The Framework for Protecting Children from Abuse and Neglect

The Role of the Local Authority in Education Services

2.12. Local authorities have responsibilities at three levels:

- **Strategic** – planning, coordinating delivery of services, and allocating resources; working in partnership with other agencies (e.g. children’s services, health care professionals, youth offending teams) and Local Safeguarding Children Boards (LSCBs);
- **Support** – ensuring that maintained schools are aware of their responsibilities for safeguarding children; monitoring their performance; making available appropriate training, model policies and procedures;

providing advice and support; and
facilitating links and cooperation with

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other agencies. Local authorities will normally extend these functions to any non-maintained special schools in their area. Many authorities also provide these services to independent schools and FE colleges. Authorities are free to do that, and to charge appropriate fees for services and training provided to independent and FE establishments;

□□ **Operational** – taking responsibility for safeguarding children who are excluded from school, or who have not obtained a school place, for example children in pupil referral units or being educated by the authority's home tutor service; involvement in dealing with allegations against staff and volunteers; and ensuring arrangements are in place to prevent unsuitable staff and volunteers from working with children.

Responsibility for safeguarding children who are educated at home by their parents, or who are employed, are not solely education issues. These matters are best dealt with by a multi-agency approach and should be addressed in locally agreed procedures in accordance with the principles set out in *Working Together to Safeguard Children* (DfES 2006) and the *Framework for the Assessment of Children in Need and their Families* (DH 2000).

2.13. All local authorities will have identified a senior officer for safeguarding children to undertake and manage the provision of the above functions and services. An outline of the responsibilities that might fall within the remit of the lead officer is at Appendix 2. (An increasing number of authorities are putting in place a full time post for this work.) Authorities can also draw on strategic support and advice from the Allegations Management Advisors (AMAs) based in Government Offices.

2.14. Specific measures that local authorities should have in place in each of the above areas are set out below.

Strategic Responsibilities

2.15. At this level the local authority

should:

- allocate resources to support the work of the LSCB;
- ensure that a senior officer represents the education service of the local authority on the LSCB and that the education service makes an effective contribution to planning co-ordinated services to meet the needs of children;
- work with other agencies to put in place and support effective partnership working;
- work with other agencies in implementing new policies to identify and secure provision for children not receiving a suitable education, for example to meet the duty to identify them provided by the Education and Inspections Act 2006, and ensure that they include appropriate arrangements for safeguarding and promoting the welfare of children;

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- allocate resources to enable the authority and maintained schools to discharge their responsibilities for safeguarding children satisfactorily;
- liaise with the appropriate diocesan authorities in respect of arrangements for aided schools in their area;
- monitor the compliance of maintained schools with this guidance, in particular in regard to the existence and operation of appropriate policies and procedures, and the training of staff, including the senior person with designated responsibility for child protection. Bring any deficiencies to the attention of the governing body of the school and advise the action needed to remedy them;
- take action to resolve any inter-agency problems as soon as they are identified; and
- play a full part in case reviews in accordance with Chapter 8 of *Working Together to Safeguard Children* (serious case reviews); review and revise procedures and training to safeguard children in light of the findings of those reviews; and disseminate information about relevant findings to the people

with designated responsibility for child protection in the authority and maintained schools.

Support Responsibilities

2.16. At this level the local authority should:

- make sure that induction training for all new staff in the authority, staff who will work with children in maintained schools, and governors of maintained schools, includes training on safeguarding children that will enable them to fulfil their responsibilities in respect of child protection effectively, and that suitable refresher training to keep staff knowledge and skills up to date is also available. Staff who do not have designated lead responsibility for child protection should have refresher training every three years;
- make sure that further training in interagency working to safeguard children that is provided by the LSCB, or meets the standards set out by the LSCB, is available for all staff appointed to have designated lead responsibility for child protection, and that suitable refresher training that will keep the skills and knowledge of senior designated staff up to date is also available and meets the standard set by the LSCB. Staff with designated lead responsibility for child protection should have refresher training every two years;
- provide model policies and procedures for maintained schools on all aspects of safeguarding children, including the vetting of new staff and volunteers, attendance monitoring and action in the case of non-attendance or withdrawal from school and procedures for dealing with allegations against staff and volunteers that conforms to the guidance set out in Chapters 4 and 5 of **12 EVERY CHILD MATTERS** this guidance. The authority should ensure that such policies and procedures comply with local LSCB agreed procedures for inter-agency working in all appropriate respects. An outline model child protection policy, and guidance relating to these issues,

including guidance drawn up jointly by the National Employers Organisation for School Teachers (NEOST) and six teacher unions can be found at:

http://www.lge.gov.uk/conditions/education/content/allegations_index.html, and guidance compiled by the network of Investigation and Referral Support Coordinators (IRSC) can be found at:

http://www.teachernet.gov.uk/wholeschool/familyandcommunity/childprotection/otheragencyroles/irsc/IRSC_Guidance_Documents/

- provide advice and support for maintained schools, and senior designated staff in those establishments about dealing with individual cases, where necessary acting on their behalf to resolve any difficulties with, or obtain appropriate support from, LSCB partner agencies; and

- have in place arrangements to support staff in the authority and maintained schools who have designated lead responsibility for child protection, and to encourage and foster a good understanding and working relationship between them, children's social workers, and staff in other agencies involved in safeguarding children, to develop effective partnership working.

Operational Responsibilities

2.17. At this level the local authority should:

- operate safe recruitment procedures as set out in Chapters 3 and 4 of this guidance;

- have arrangements in place to safeguard and promote the welfare of children who have not been allocated a school place, or are excluded from school, including those being educated in pupil referral units, or via the home tutor service, or who have been identified as not receiving a suitable education under the terms of section 4 of the Education and Inspections Act 2006. As noted in 2.12 above, safeguarding the welfare of children who are educated at home by parents, or who are employed, are multiagency responsibilities that should be

addressed in locally agreed inter-agency procedures in accordance with the principles set out in *Working Together to Safeguard Children*. Local authorities may take a lead on these issues because of other responsibilities, e.g. for ensuring the quality of education for children educated at home is satisfactory, but safeguarding in these circumstances requires an inter-agency approach;

- have procedures in place for dealing with allegations of abuse against members of staff and volunteers as set out in Chapter 5 of this guidance; and
- ensure that the authority's staff and any staff carrying out functions on behalf of the authority who work with children

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receive training that equips them to carry out their responsibilities for child protection effectively.

The Role of Governing Bodies of Maintained Schools, and Non-Maintained Special Schools

2.18. Governing bodies are accountable for ensuring their establishment has effective policies and procedures in place in accordance with this guidance, and monitoring the school's compliance with them. Neither the governing body, nor individual governors, have a role in dealing with individual cases or a right to know details of cases (except when exercising their disciplinary functions in respect of allegations against a member of staff). Some governing bodies have found it helpful for an individual member of the governing body to champion child protection issues within the school, liaise with the head teacher about them, and provide information and reports to the governing body. However, it is not usually appropriate for that person to take the lead in dealing with allegations of abuse made against the head teacher. That is more properly the role of the chair of governors or, in the absence of a chair, the vice or deputy chair. Whether the governing body acts collectively or an individual member takes the lead, it is helpful if all members of governing bodies undertake training about child protection to ensure they have the

knowledge and information needed to perform their functions and understand their responsibilities.

2.19. Governing bodies should ensure that:

- the school has a child protection policy and procedures in place that are in accordance with local authority guidance and locally agreed interagency procedures, and the policy is made available to parents on request;
- the school operates safe recruitment procedures and makes sure that all appropriate checks are carried out on staff and volunteers who work with children;
- the school has procedures for dealing with allegations of abuse against members of staff and volunteers that comply with guidance from the local authority and locally agreed interagency procedures;
- a senior member of the school's leadership team is designated to take lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority, and working with other agencies. The designated person need not be a teacher but must have the status and authority within the school management structure to carry out the duties of the post (see Appendix 3) including committing resources to child protection matters, and where appropriate directing other staff. In many schools a single designated person will be sufficient, but a deputy should be available to act in the designated person's absence. In large establishments, or those with a large number of child protection concerns, it may be necessary to have a number of deputies to deal with the workload;
- in addition to basic child protection training the designated person undertakes training in inter-agency working that is provided by, or to standards agreed by, the LSCB, and refresher training at two yearly intervals to keep his or her knowledge and skills up to date;

- the head teacher, and all other staff who work with children, undertake appropriate training to equip them to carry out their responsibilities for child protection effectively, that is kept up to date by refresher training at three yearly intervals, and temporary staff and volunteers who work with children are made aware of the school's arrangements for child protection and their responsibilities;
- they remedy without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to their attention;
- a member of the governing body (usually the chair) is nominated to be responsible for liaising with the local authority and /or partner agencies, as appropriate in the event of allegations of abuse being made against the head teacher; and
- they review their policies and procedures annually and provide information to the local authority about them and about how the above duties have been discharged.

Governing Bodies of Further Education Colleges

2.20. The responsibilities of governing bodies (Corporations) of FE colleges are similar in principle to those of governing bodies of maintained schools, and the guidance in paragraph 2.18 applies with appropriate modifications. However, FE colleges are also different from schools in some respects. The statutory responsibilities for safeguarding and child protection only apply in relation to students who are children, that is under 18 years old. As autonomous bodies FE colleges cannot rely automatically on local authorities to provide advice, support, access to training, policies and procedures, etc. Local authorities are free to provide those services to FE colleges, but have no obligation to do so. Services can be provided free or for a charge. Institutions that do not purchase services from a local authority can approach the LSCB for advice.

2.21. The arrangements FE governing bodies need to put in place in respect of students under 18 years of age are therefore similar in principle to those that are listed in paragraph 2.19 (with appropriate modifications). In particular the governing body should ensure that:

- the institution has a child protection policy and procedures in place that are in keeping with locally agreed inter-
15 agency procedures, and the policy is made available to students or parents on request;
- the institution operates safe recruitment procedures and makes sure that all appropriate checks are carried out on staff and volunteers who work with children, as set out in Chapters 3 and 4;
- the institution has procedures for dealing with allegations of abuse against members of staff and volunteers that comply with locally agreed interagency procedures and the guidance in Chapter 5 of this document;
- a senior member of the institution’s staff is designated to take lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority, and working with other agencies. The designated person must have the status and authority within the institution’s management structure to carry out the duties of the post (see Appendix 3 on broad areas of responsibility) including committing resources to child protection matters, and where appropriate directing other staff. Dealing with individual cases may be a responsibility of the student welfare or student support arrangements in institutions, but it is important that a senior member of staff takes responsibility for this area of work;
- where an institution provides education and/or training for pupils under 16 years of age who are on the roll of secondary schools, the designated person liaises with the schools concerned and ensures that appropriate arrangements are in place to safeguard the children;

□□in addition to basic child protection training, the designated person undertakes training in inter-agency working that is provided by, or to standards agreed by, the LSCB, and refresher training at two yearly intervals to keep his or her knowledge and skills up to date;

□□the principal, and all other staff who work with children undertake training to equip them to carry out their responsibilities for child protection effectively, that is kept up to date by refresher training at three yearly intervals, and temporary staff and volunteers who work with children are made aware of the institution's arrangements for child protection and their responsibilities;

□□it remedies without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to its attention; and

□□it undertakes an annual review of its policies and procedures relating to safeguarding and how the above duties have been discharged.

Proprietors of Independent Schools

2.22. Proprietors of independent schools have similar responsibilities to those of governing bodies of maintained schools but cannot rely on local authorities to provide advice, support, etc. automatically in the

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same way as they do for maintained schools. Authorities are free to provide those services to independent schools, and many do, charging appropriate fees for the work, but they have no obligation to do so. As with FE colleges, independent schools that do not purchase services from a local authority can approach the LSCB for advice. In any event, proprietors should ensure that:

□□the school has a child protection policy and procedures in place that are in accordance with locally agreed interagency procedures, and the policy is made available to parents on request;

□□the school operates safe recruitment procedures and makes sure that all appropriate checks are carried out on staff and volunteers who work with

children, as set out in chapters 3 and 4;

- the school has procedures for dealing with allegations of abuse against members of staff or volunteers that comply with locally agreed inter-agency procedures and the guidance in Chapter 5 of this document. These include procedures for the proprietor to liaise with other agencies in the event that allegations are made involving the head teacher (where the Proprietor is not the head teacher);

- a senior member of the school's management structure is designated to take lead responsibility for dealing with child protection issues and liaising with other agencies where necessary. As in maintained schools, the designated person need not be a teacher but must have the status and authority within the school management structure to carry out the duties of the post (see Appendix 3 about broad areas of responsibility) including committing resources to child protection matters and where appropriate directing other staff.

In many independent schools a single designated person will be sufficient, but a deputy should be available to act in the designated person's absence, and in schools which are organised into separate junior and senior parts on different sites or with a separate management line, there should be a designated person for each part or site;

- in addition to basic child protection training, the designated person undertakes training in inter-agency working that is provided by, or to standards set by, the LSCB, and refresher training at two yearly intervals to keep his or her knowledge and skills up to date;

- the head teacher, and all other staff who work with children undertake training that equips them with the knowledge and skills necessary to carry out their responsibilities for child protection that is kept up to date by refresher training at three yearly intervals, and temporary staff and volunteers who work with children are made aware of the school's

arrangements for child protection and their responsibilities;
□□any deficiencies or weaknesses in regard to child protection arrangements are remedied without delay; and

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□□the proprietor undertakes an annual review of the school's policies and procedures relating to safeguarding, and how the above duties have been discharged.

Boarding Schools

2.23. Governing bodies and proprietors of independent schools which provide boarding accommodation for children will be aware that boarding schools are inspected by the Commission for Social Care Inspection under the Boarding Schools National Minimum Standards Inspection Regulations. These are published by the Secretary of State under section 87 C(1) of the Children Act 1989 as amended by the Care Standards Act 2000. From 1 April 2007 this role will be undertaken by Ofsted.

2.24. These regulations set out standards which are intended to safeguard and promote the welfare of children for whom accommodation is provided by a boarding school and they apply to all mainstream boarding schools in England. These standards will be used to assess whether the school is complying with its legal obligation to safeguard and promote the welfare of the children for whom accommodation is provided. Standard 3 is specific to child protection and allegations of abuse and sets out what must be in place for these standards to be met. Further information can be found at: www.teachernet.gov.uk/childprotection/guidance.htm

Extended Schools and Before and After School Activities

2.25. The governing body of a school controls the use of the school premises both during and outside school hours, except where a trust deed allows a person other than the governing body to control the use of the premises, or a transfer of control agreement has been made. Governing bodies can enter into transfer

of control agreements in order to share control of the school premises with another body, or transfer control to it. The other body, known as the 'controlling body', will control the occupation and use of the premises during the times specified in the agreement. Transferring control of the premises to local community groups, sports associations and service providers can enable school facilities to be used without needing ongoing management or administrative time from school staff.

2.26. Where the governing body provides services or activities directly under the supervision or management of school staff, the school's arrangements for child protection will apply. Where services or activities are provided separately by another body, the governing body should seek assurance that the body concerned has appropriate policies and procedures in place in regard to safeguarding children and child protection and there are arrangements to liaise with the school on these matters where appropriate.

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Further information can be found at:
www.teachernet.gov.uk/childprotection/guidance.htm

For further advice on extended schools provision, see Chapter 4, paragraphs 4.79 to 4.86.

Head Teachers and Principals

2.27. Head teachers of all schools and principals of FE colleges should ensure that:

- the policies and procedures adopted by the governing body or proprietor are fully implemented, and followed by all staff;
- sufficient resources and time are allocated to enable the designated person and other staff to discharge their responsibilities, including taking part in strategy discussions and other interagency meetings, and contributing to the assessment of children; and
- all staff and volunteers feel able to raise concerns about poor or unsafe practice with regard to children, and such concerns are addressed sensitively and effectively in a timely manner in

accordance with agreed whistle blowing policies, where appropriate.

Reporting Cases to the Secretary of State

2.28. It is essential that cases are reported to the Secretary of State if a person ceases to work in an education setting and there are grounds for believing s/he may be unsuitable to work with children, or may have committed misconduct. The Secretary of State will consider whether to prohibit the person from working with children in the future or place restrictions on their employment in educational establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the Secretary of State. Further information can be found in Appendix 10, and at: www.teachernet.gov.uk/childprotection/guidance.htm

Additional Advice on Safeguarding Children

2.29. Annex A provides additional advice on a range of topics which may be of assistance to local authorities, governors, proprietors, principals and head teachers in discharging their responsibility to safeguard children and young people.

¹⁹

Context

3.1. Experience shows the importance of organisations that provide services to children operating recruitment and selection procedures and other human resources (HR) management processes that help deter, reject, or identify people who might abuse children, or are otherwise unsuited to work with them. Making safeguarding and promoting the welfare of children an integral factor in HR management is an essential part of creating safe environments for children and young people.

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Chapter 3: Recruitment and Selection

Summary

It is vital that schools, FE colleges, and other education establishments adopt recruitment and selection procedures and other human resources management processes that help to deter, reject, or identify people who might abuse children, or are otherwise unsuited to work with them. This chapter provides advice about practice that should be followed to achieve that. It aims to assist all schools, including

nonmaintained and independent schools, FE colleges, and local authorities exercising education functions, to review and, where appropriate, modify their practice and procedure in ways that will strengthen safeguards for children and young people by helping to deter and prevent abuse.

This chapter accompanies and supports the on-line training introduced in response to Sir Michael Bichard's recommendation that head teachers and school governors should receive training to ensure that the process of appointing staff reflects the importance of safeguarding children. However, it can be used without reference to that training. It should be read in particular in conjunction with Chapter 4, and is relevant for the purposes of s175 and s157 of the Education Act 2002.

This chapter replaces *Safeguarding Children: Safer Recruitment and Selection in Education Settings*, issued in June 2005.

Audience

3.2. The chapter details a range of recruitment best practice, and will be particularly helpful for:

- all staff and governors who take part in recruiting and selecting people to work in schools, FE colleges, and local authority education services;

- people and organisations that provide personnel or HR advice or services to those bodies;

- employment agencies and businesses that provide supply teachers and other staff to work in schools and/or other education settings; and

- organisations that contract with local authorities, schools, or FE colleges to provide services that involve their employees in working in schools, FE colleges or other education settings.

It aims to assist those people and organisations to review and, where appropriate, change their practice and procedures in ways that will strengthen safeguards for children by helping to deter and prevent abuse.

Scope

3.3. The measures described in this chapter should be applied in relation to everyone who works in an education setting where there are children under 18

years of age who is likely to be perceived by the children as a safe and trustworthy adult. Those are not only people who regularly come into contact with children, or who will be responsible for children, as a result of their work. They are also people who regularly work in a setting such as a school when the pupils are present, who may not have direct contact with children as a result of their job, but nevertheless will be seen as safe and trustworthy because of their regular presence in the setting. This includes workers not on the payroll, e.g. staff employed by contractors, and unpaid volunteers.

Contractors

3.4. Local authorities, schools, and FE colleges should ensure that the terms of any contract they let that requires the contractor to employ staff to work with, or provide services for, children for whom the local authority, school or FE college is responsible also requires the contractor to adopt and implement the measures described in this guidance. They should also monitor the contractor's compliance. Further advice on the vetting of contractors is provided in Chapter 4, paragraphs 4.74 and 4.75.

Volunteers

3.5. Volunteers are also seen by children as safe and trustworthy adults, and if a school or FE college is actively seeking volunteers, and is considering candidates about whom it has little or no recent knowledge, it should adopt the same recruitment measures as it would for paid staff. In other circumstances, for example where a school approaches a parent who is well known to the school to take on a particular role, a streamlined procedure

²¹ can be adopted: seeking references, checking to ensure others in the school community know of no concerns and can make a positive recommendation, conducting an informal interview to gauge the person's aptitude and suitability, and undertaking a List 99⁵ and a Criminal Records Bureau (CRB) disclosure. In other circumstances, e.g. where a volunteer's roles will be one off, such as accompanying

teachers and pupils on a day outing or helping at a concert or school fete, those kind of measures would be unnecessary provided that the person is not to be left alone and unsupervised in charge of children. Where volunteers recruited by another organisation work in a school, e.g. sports coaches from a local club, the school should obtain assurance from that organisation that the person has been properly vetted. See Chapter 4 for further information.

Other Settings

3.6. The principles set out in this chapter can be applied in other settings in which adults work with children, and guidance with a similar theme has been issued in the past in relation to looked after children by the Department of Health under the title *Towards Safer Care*.

Further Advice and Guidance

3.7. This chapter is not a comprehensive guide to recruitment and selection or employment issues. It does not cover all the issues relevant to that subject. It is not a substitute for training in those areas, or in interviewing and assessment techniques. Head teachers, principals and others who recruit and select staff and volunteers and manage services and establishments will need appropriate training as well as support and advice from their personnel or HR adviser to ensure their practice satisfies the requirements of employment law.

3.8. More information about the issues covered in this chapter and the on-line training package can be found on the National College for School Leadership web site at: www.ncsl.org.uk under the heading Safer Recruitment. In addition, the following websites provide information and advice about recruitment and selection, or issues related to safeguarding and promoting the welfare of children, and links to other useful sites and documents:

□□ Chartered Institute of Personnel and Development
Good practice for recruitment practices and other personnel issues:
www.cipd.co.uk

□□ Department for Education and Skills

(DfES)

Child Protection Website:

www.teachernet.gov.uk/childprotection

□□ School Governors Website:

www.governornet.co.uk

□□ *Physical and Mental Fitness to Teach of Teachers and Entrants to Initial Teacher Training*, DfEE – Circular 4/99

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5 A list of people whose employment with children is prohibited or restricted by the Secretary of State for Education and Skills.

www.dfes.gov.uk/publications/guidanceonthelaw/6_99/circa148.htm

□□ Staffing Guidance Under Section 35(8) and 36(8) of the Education Act 2002:

<http://www.governornet.co.uk/linkAttachments/New%20Staffing%20Guidance.pdf>

□□ Every Child Matters Change for Children:

<http://www.everychildmatters.gov.uk/>

□□ *Guidance on Safe Working Practice for the Protection of Children and Staff in Education Settings*:

www.teachernet.gov.uk/irsc

□□ Employers' Organisation for local government

www.lg-employers.gov.uk

□□ General Teaching Council for England (GTC)

www.gtce.org.uk

□□ The Office for Standards in Education (Ofsted)

www.ofsted.gov.uk

□□ National Association for the Care and Resettlement of Offenders (NACRO)

Crime reduction charity and advice on resettlement of offenders.

www.nacro.org.uk

Recruiting ex-offenders: the employers' perspective:

<http://www.nacro.org.uk/publications/prisreset.htm#exoffenders>

3.9. Detailed guidance on recruitment and vetting checks for those working in education settings is provided in Chapter 4 of this guidance.

Elements of Safer Practice

3.10. Safer practice in recruitment means thinking about and including issues to do with child protection and safeguarding and promoting the welfare of children at every stage of the process. It starts with the process of planning the recruitment

exercise and, where the post is advertised, ensuring that the advertisement makes clear the organisation's commitment to safeguarding and promoting the welfare of children. It also requires a consistent and thorough process of obtaining, collating, analysing, and evaluating information from and about applicants. Main elements of the process include:

- ensuring the job description makes reference to the responsibility for safeguarding and promoting the welfare of children;
 - ensuring that the person specification includes specific reference to suitability to work with children;
 - obtaining and scrutinising comprehensive information from applicants, and taking up and satisfactorily resolving any discrepancies or anomalies;
 - obtaining independent professional and character references that answer specific questions to help assess an applicant's suitability to work with children and following up any concerns;
 - a face-to-face interview that explores the candidate's suitability to work with children as well as his or her suitability for the post;
 - verifying the successful applicant's identity;
 - verifying that the successful applicant has any academic or vocational qualifications claimed;
 - checking his or her previous employment history and experience;
 - verifying that s/he has the health and physical capacity for the job;
 - the mandatory check of List 99 and/or the Protection of Children Act (PoCA) List⁶, and, where appropriate, an Enhanced Disclosure via the CRB.
- Chapter 4 provides detailed guidance on which checks are required for staff and volunteers working in education settings.

N.B. It is important not to rely solely on criminal record and List 99 or PoCA List checks to screen out unsuitable applicants. Those checks are an essential safeguard,

but they will only pick up those abusers who have been convicted, or have come to the attention of the police, or who have been listed. Many individuals who are unsuited to working with children will not have any previous convictions, and will not appear on List 99 or the PoCA List.

3.11. The checklist at Appendix 4 provides a convenient way of signing off each stage of the process and can be filed as a permanent record at the end of the process. Completion of this checklist will fulfil the statutory requirement to maintain a record of the recruitment and vetting checks which have been undertaken as specified in Chapter 4 of this guidance.

Continuing Awareness

3.12. It is vital that the measures described in this chapter and in Chapter 4 are applied thoroughly whenever someone is recruited to work with children, but that must not be the end of the matter. Schools and FE colleges are safe environments for the great majority of children, and the vast majority of people who work with children have their safety and welfare at heart. But we must not be complacent. We know that some people seek access to children in order to abuse, and that abused children very often do not disclose the abuse at the time. We also know that some of the allegations of abuse made against staff are substantiated, and we continue to see a number of cases year on year in which teachers and other staff are convicted of criminal offences involving the abuse of children.

3.13. It is crucial therefore that everyone working in a school or any other setting providing for children is aware of these issues, and the need to adopt ways of working and appropriate practice to help reduce allegations. And it is equally

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6 A list of people who are deemed unsuitable to work with children under the Act

important that everyone is able to raise concerns about what seems to be poor or unsafe practice by colleagues, and that those concerns, and concerns expressed by children, parents or others are listened to and taken seriously.

3.14. It will often be hard to give credence

to concerns particularly if they are about a long serving and trusted colleague. Unfortunately those concerns will sometimes be true and it is important that they are taken seriously and not simply dismissed. Where concerns have not been taken seriously in the past a person has been able to continue abusing children, sometimes for many years. It is vital therefore that all concerns are taken seriously and that, where appropriate, action is taken in accordance with the procedures for dealing with allegations against education staff, as detailed in Chapter 5.

Safer Recruitment Practice

Recruitment and Selection Policy Statement

3.15. The employer should have an explicit written recruitment and selection policy statement and procedures that comply with national and local guidance. The statement should detail all aspects of the process and should link to their child protection policy and procedures.

3.16. The policy statement should incorporate an explicit statement about the organisation's commitment to safeguarding and promoting the welfare of children. An appropriate statement should be included in any model recruitment and selection policy that a local authority or HR adviser provides to establishments. For example:

“This authority/school/college is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment.”

3.17. The statement should be included in:

- ☐☐ Publicity materials
- ☐☐ Recruitment websites
- ☐☐ Advertisements
- ☐☐ Candidate information packs
- ☐☐ Person specifications
- ☐☐ Job descriptions
- ☐☐ Competency frameworks
- ☐☐ Induction training

Planning and Advertising

3.18. Planning is vital to successful recruitment. It is important to be clear

about what mix of qualities, qualifications and experience a successful candidate will need to demonstrate, and whether there are any particular matters that need to be mentioned in the advertisement for the post in order to prevent unwanted applications. It is essential to plan the recruitment exercise itself, identifying who should be involved, assigning responsibilities, and setting aside sufficient time for the work needed at each stage so that safeguards are not skimmed or overlooked. For example, it is important

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to organise the selection process to allow references to be obtained on shortlisted candidates before interview.

3.19. The person specification will need careful thought and drafting. It is also good practice to make sure at the outset that all the other material, e.g. the application form, job description, and information or guidance for applicants that will form part of the candidate information pack is up-to-date, and clearly sets out the extent of the relationships and contact with children, and the degree of responsibility for children that the person will have in the position to be filled. N.B. All work in a school, FE college or similar setting involves some degree of responsibility for safeguarding children, although the extent of that responsibility will vary according to the nature of the post.

3.20. The time and effort spent in this stage of the process should help minimise the risk of making an unsuitable appointment.

3.21. When a vacancy is advertised, the advertisement should include a statement about the employer's commitment to safeguarding and promoting the welfare of children, and reference to the need for the successful applicant to undertake an Enhanced Disclosure via the CRB, where appropriate, as well as the usual details of the post and salary, qualifications required, etc.

Application Form

3.22. Employers should use an application form to obtain a common set of core data from all applicants. It is not good practice

to accept curriculum vitae drawn up by applicants in place of an application form because these will only contain the information the applicant wishes to present and may omit relevant details.

3.23. For applicants for all types of post the form should obtain:

- full identifying details of the applicant including current and former names, date of birth⁷, current address, and National Insurance number;
- a statement of any academic and/or vocational qualifications the applicant has obtained that are relevant to the position for which s/he is applying with details of the awarding body and date of award;
- a full history in chronological order since leaving secondary education, including periods of any post-secondary education or training, and part-time and voluntary work as well as full-time employment, with start and end dates, explanations for periods not in employment, education or training, and reasons for leaving employment;
- a declaration of any family or close relationship to existing employees or employers (including councillors and governors);

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⁷ To ask for date of birth is not discriminatory. This information is required to ensure correct identification of the candidate.

- details of referees. One referee should be the applicant's current or most recent employer, and normally two referees should be sufficient. N.B. Where an applicant who is not currently working with children has done so in the past it is important that a reference is also obtained from the employer by whom the person was most recently employed in work with children. The form should make it clear that references will not be accepted from relatives or from people writing solely in the capacity of friends; and
- a statement of the personal qualities and experience that the applicant believes are relevant to his or her suitability for the post advertised and how s/he meets the person specification.

3.24. The application form should include an explanation that the post is exempt from the Rehabilitation of Offenders Act 1974 and therefore that all convictions, cautions and bind-overs, including those regarded as ‘spent’, must be declared. And it should require a signed statement that the person is not on List 99, disqualified from work with children, or subject to sanctions imposed by a regulatory body, e.g. the General Teaching Council (GTC), and either has no convictions, cautions, or bind-overs, or has attached details of their record in a sealed envelope marked confidential.

3.25. It should record that:

- where appropriate the successful applicant will be required to provide a CRB Disclosure at the appropriate level for the post;
- the prospective employer will seek references on short-listed candidates, and may approach previous employers for information to verify particular experience or qualifications, before interview;
- if the applicant is currently working with children, on either a paid or voluntary basis, his or her current employer with children will be asked about disciplinary offences relating to children, including any in which the penalty is time expired (that is where a warning could no longer be taken into account in any new disciplinary hearing for example) and whether the applicant has been the subject of any child protection concerns, and if so, the outcome of any enquiry or disciplinary procedure. If the applicant is not currently working with children but has done so in the past, that previous employer will be asked about those issues; and
- providing false information is an offence and could result in the application being rejected, or summary dismissal if the applicant has been selected, and possible referral to the police.

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3.26. Applicants for teaching posts should also be asked:

- to provide their DfES reference number;

- whether s/he has Qualified Teacher status (QTS); and
- whether s/he is registered with the GTC for England.

Applicants for teaching posts in FE colleges should be asked whether s/he has a teaching qualification, and for the details of this.

Explanatory notes and/or instructions for completing the form should be included in the candidate's information pack.

Job Description

3.27. This should clearly state:

- the main duties and responsibilities of the post; and
- the individual's responsibility for promoting and safeguarding the welfare of children and young persons s/he is responsible for, or comes into contact with.

As noted in paragraph 3.19, all work in a school or similar setting involves some degree of responsibility for safeguarding children, although the extent of that responsibility will vary according to the nature of the post.

Person Specification

3.28. This should:

- include the qualifications and experience, and any other requirements needed to perform the role in relation to working with children and young people;
- describe the competences and qualities that the successful candidate should be able to demonstrate;
- explain how these requirements will be tested and assessed during the selection process. For example:

“In addition to candidates' ability to perform the duties of the post, the interview will also explore issues relating to safeguarding and promoting the welfare of children including:

- motivation to work with children and young people;
- ability to form and maintain appropriate relationships and personal boundaries with children and young people;
- emotional resilience in working with

challenging behaviours; and

- attitudes to use of authority and maintaining discipline;” and
- explain that if the applicant is short listed any relevant issues arising from his or her references will be taken up at interview.

Candidate Information Pack

3.29. The pack should include a copy of:

- the application form, and explanatory notes about completing the form;
 - the job description and person specification;
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- any relevant information about the local authority or establishment and the recruitment process, and statements of relevant policies such as the authority or establishment’s policy about equal opportunities, the recruitment of ex-offenders, etc;
 - the establishment’s Child Protection Policy Statement; and
 - a statement of the terms and conditions relating to the post.

Scrutinising and Short listing

3.30. All applications should be scrutinised to ensure that they are fully and properly completed, that the information provided is consistent and does not contain any discrepancies, and to identify any gaps in employment. Incomplete applications should not be accepted and should be returned for completion. Any anomalies or discrepancies or gaps in employment identified by the scrutiny should be noted so that they can be taken up as part of the consideration of whether to short list the applicant. As well as reasons for obvious gaps in employment, the reasons for a history of repeated changes of employment without any clear career or salary progression, or a mid-career move from a permanent post to supply teaching or temporary work, also need to be explored and verified.

3.31. All candidates should be assessed equally against the criteria contained in the person specification without exception or variation.

References

3.32. The purpose of seeking references is

to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. “To Whom It May Concern”. There have been instances of candidates forging references. Open references or testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments. Detailed guidance on references is provided in Chapter 4, paragraphs 4.30 to 4.36.

Checks Before Interview

3.33. If a short listed applicant claims to have some specific qualification or previous experience that is particularly relevant to the post for which s/he is applying that will not be verified by a reference, it is good practice to verify the facts before interview so that any discrepancy can be explored at interview. The qualification or experience can usually be verified quickly by telephoning the relevant previous employer and asking for written confirmation of the facts.

Involving Pupils and Students

3.34. Involving pupils and students in the recruitment and selection process in some way, or observing short listed candidates' interaction with them is common, and recognised as good practice. There are

²⁹ different ways of doing that. For example, candidates for teaching posts might be asked to teach a lesson, short listed candidates might be shown round the school or FE college by students and a governor or senior member of staff, and/or meet with pupils and staff.

Interviews

3.35. The interview should assess the merits of each candidate against the job requirements, and explore their suitability to work with children. The selection process for people who will work with children should always include a face-to-face interview even if there is only one candidate.

Invitation to Interview

3.36. In addition to the arrangements for interviews – time and place, directions to the venue, membership of the interview panel – the invitation should remind candidates about how the interview will be conducted and the areas it will explore including suitability to work with children. Enclosing a copy of the person specification can usefully draw attention to the relevant information.

3.37. The invitation should also stress that the identity of the successful candidate will need to be checked thoroughly to ensure the person is who he or she claims to be, and that where a CRB Disclosure is appropriate the person will be required to complete an application for a CRB Disclosure straight away. Consequently all candidates should be instructed to bring with them documentary evidence of their identity that will satisfy CRB requirements, i.e. either a current driving licence or passport including a photograph, or a full birth certificate, plus a document such as a utility bill or financial statement that shows the candidate's current name and address, and where appropriate change of name documentation.

3.38. Candidates should also be asked to bring documents confirming any educational and professional qualifications that are necessary or relevant for the post, e.g. the original or a certified copy of a certificate, or diploma, or a letter of confirmation from the awarding body. N.B. If the successful candidate cannot produce original documents or certified copies written confirmation of his or her relevant qualifications must be obtained from the awarding body.

3.39. A copy of the documents used to verify the successful candidate's identity and qualifications must be kept for the personnel file.

Interview Panel

3.40. Although it is possible for interviews to be conducted by a single person it is not recommended. It is better to have a minimum of two interviewers, and in some cases, e.g. for senior or specialist posts, a larger panel might be appropriate. A panel

of at least two people allows one member to observe and assess the candidate, and make notes, while the candidate is talking to the other. It also reduces the possibility

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of any dispute about what was said or asked during the interview.

3.41. The members of the panel should:

- have the necessary authority to make decisions about appointment;
- be appropriately trained, (from a date to be agreed one member of interview panels in schools should have undertaken the on-line training that is provided via the National College for School Leadership – see paragraph 3.8 for a link to the on-line training package);
- meet before the interviews to:
 - reach a consensus about the required standard for the job to which they are appointing;
 - consider the issues to be explored with each candidate and who on the panel will ask about each of those; and
 - agree their assessment criteria in accordance with the person specification.

3.42. The panel must agree in advance a list of questions for each candidate that they will not deviate from, but they should agree a set of questions they will ask all candidates relating to the requirements of the post, and the issues they will explore with each candidate based on the information provided in the candidate's application and references (if available). A candidate's response to a question about an issue will determine whether and how that is followed up. Where possible it is best to avoid hypothetical questions because they allow theoretical answers. It is better to ask competence based questions that ask a candidate to relate how s/he has responded to, or dealt with, an actual situation, or questions that test a candidate's attitudes and understanding of issues.

Scope of the Interview

3.43. In addition to assessing and evaluating the applicant's suitability for the

particular post, the interview panel should also explore:

- the candidate's attitude toward children and young people;
- his or her ability to support the authority or establishment's agenda for safeguarding and promoting the welfare of children;
- gaps in the candidate's employment history; and
- concerns or discrepancies arising from the information provided by the candidate and/or a referee.

The panel should also ask the candidate if they wish to declare anything in light of the requirement for a CRB Disclosure.

3.44. If, for whatever reason, references are not obtained before the interview, the candidate should also be asked at interview if there is anything s/he wishes to declare or discuss in light of the questions that have been (or will be) put to his or her referees. It is vital that the references are obtained and scrutinised before a person's appointment is confirmed and before s/he starts work.

Conditional Offer of Appointment: Pre-Appointment Checks

3.45. An offer of appointment to the successful candidate should be conditional upon:

- the receipt of at least two satisfactory references (if those have not already been received – see paragraphs 3.32 and 4.30);
- verification of the candidate's identity (if that could not be verified straight after the interview);
- a check of DfES List 99 (in some residential establishments a check of the PoCA List may also be required) and, where appropriate, a satisfactory CRB Disclosure;
- verification of the candidate's medical fitness;
- verification of qualifications (if not verified after the interview);
- verification of professional status where required e.g. GTC registration, QTS status (unless properly exempted), NPQH;

□□(for teaching posts) verification of successful completion of statutory induction period (applies to those who obtained QTS after 7 May 1999); and

□□(for non teaching posts) satisfactory completion of the probationary period. Chapter 4 sets out detailed guidance on pre-appointment checks and what records need to be made and retained of these checks.

3.46. The authority or establishment should seek advice from its HR or personnel services provider, and follow relevant CRB guidance if a Disclosure reveals information that a candidate has not disclosed in course of the selection process.

3.47. All checks should be:

- confirmed in writing;
- documented and retained on the personnel file (subject to relevant advice contained in the CRB Code of Practice⁹ and the organisation's own data protection arrangements); and
- followed up where they are unsatisfactory or there are discrepancies in the information provided.

3.48. Where:

- the candidate is found to be on List 99 or the PoCA List, or the CRB Disclosure shows s/he has been disqualified from working with children by a Court; or
- an applicant has provided false information in, or in support of, his or her application; or
- there are serious concerns about an applicant's suitability to work with children, the facts must be reported to the police and/or the DfES Children's

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⁸ *Physical and Mental Fitness to Teach of Teachers and Entrants to Initial Teacher Training*, DfEE – Circular 4/99

⁹ See the CRB code of practice at www.crb.gov.uk; and appendix 9

Safeguarding Operations Unit (formerly the Teachers Misconduct Team).

List 99/ PoCA List/CRB Disclosures on Overseas Candidates

3.49. List 99, and CRB Disclosures and where appropriate PoCA List checks must be completed on overseas staff. In addition, criminal records information should be sought from countries where individuals have worked or lived. Chapter 4

provides detailed guidance on these checks.

Post Appointment: Induction

3.50. There should be an induction programme for all staff and volunteers newly appointed in an establishment, including teaching staff, regardless of previous experience. The purpose of induction is to:

- provide training and information about the establishment's policies and procedures;
- support individuals in a way that is appropriate for the role for which they have been engaged;
- confirm the conduct expected of staff within the school or FE college;
- provide opportunities for a new member of staff or volunteer to discuss any issues or concerns about their role or responsibilities; and
- enable the person's line manager or mentor to recognise any concerns or issues about the person's ability or suitability at the outset and address them immediately.

3.51. The content and nature of the induction process will vary according to the role and previous experience of the new member of staff or volunteer, but as far as safeguarding and promoting the welfare of children is concerned the induction programme should include information about, and written statements of:

- policies and procedures in relation to safeguarding and promoting welfare e.g. child protection, anti-bullying, anti racism, physical intervention or restraint, intimate care, internet safety and any local child protection and safeguarding procedures;
 - safe practice and the standards of conduct and behaviour expected of staff and pupils in the establishment;
 - how and with whom any concerns about those issues should be raised; and
 - other relevant personnel procedures e.g. disciplinary, capability and whistleblowing.
- The programme should also include attendance at child protection training

appropriate to the person's role.

Maintaining a Safer Culture

3.52. Paragraphs 3.12 to 3.14 describe the need for continued awareness of safeguarding issues. It is important that all staff in an establishment have appropriate training and induction so that they

33 understand their roles and responsibilities and are confident about carrying them out. Staff, pupils, students and parents also need to feel confident that they can raise issues or concerns about the safety or welfare of children, and that they will be listened to and taken seriously. That can be achieved by maintaining an ethos of safeguarding and promoting the welfare of children and young people and protecting staff which is supported by:

- a clear written statement of the standards of behaviour and the boundaries of appropriate behaviour expected of staff and pupils that is understood and endorsed by all;
- appropriate induction and training;
- regular briefing and discussion of relevant issues;
- including relevant material from the framework for Personal Social and Health Education in the curriculum;
- ensuring all those working with children in education settings are familiar with the good practice guidance which is in Annex A of this guidance; and
- a clear reporting system if a pupil, learner, member of staff or other person has concerns about the safety of children.

Monitoring

3.53. Monitoring of both the recruitment process and induction arrangements will allow for future recruitment practices to be better informed. It should cover:

- staff turnover and reasons for leaving;
- exit interviews; and
- attendance of new recruits at child protection training.

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Background

4.1. The main body of this chapter provides guidance for employers and institutions in the education service on the recruitment and vetting checks to be

carried out on teachers, other workers, paid and unpaid, including school and FE college governors, and the records that must be kept of those checks. It builds on the guidance and good practice on recruitment and selection in Chapter 3 and provides specific and detailed guidance on recruitment and vetting checks which must or should be carried out to ensure effective safeguarding in recruitment.

4.2. Some of this chapter is underpinned by statutory requirement, whilst some is strongly recommended. Where the check is a statutory requirement, this guidance makes clear that it **must** be carried out and in other circumstances where the check is strongly recommended that it **should** be carried out unless there are compelling reasons not to do so. Statutory changes underpinned by regulations are:

- the requirement for a CRB Enhanced Disclosure for **all** new appointments to the schools workforce under the intended School Staffing (England) (Amendment) (No. 2) Regulations 2006;
- the requirement for a CRB Enhanced Disclosure for new appointments to FE colleges who are providing education and are regularly caring for, training, supervising or being solely in charge of persons aged under 18, under the

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Chapter 4: Recruitment and Vetting Checks

Summary

This chapter details the recruitment and vetting checks that need to be made on all people who wish to work with children and young persons through a role in the education service, including overseas and agency staff working in educational establishments. It also explains the role of the Criminal Records Bureau. Although aimed specifically at the education sector, this guidance is based on best practice, and aspects of this can be utilised by other organisations which work with children and young people.

intended Further Education (Providers of Education) (England) Regulations 2006. Within this guidance we have defined 'regular' as three or more times

in a 30 day period, or overnight;
□□the requirement, under the intended School Staffing (England) (Amendment) (No 2) Regulations 2006 and intended Further Education (Providers of Education) (England) Regulations 2006 that:

- schools and FE colleges must keep a single central record detailing a range of checks carried out on their staff (for FE colleges this relates to staff providing education);
- all new appointments to the school workforce and new staff providing education at FE colleges who have lived outside the United Kingdom are subject to such additional checks as are deemed appropriate where the required CRB Enhanced Disclosure is not considered sufficient to establish suitability to work with children and young people;
- schools and FE colleges (for staff providing education) must satisfy themselves that supply staff have undergone the necessary checks to assess their suitability for the post; and
- identity checks must be carried out on all appointments to the school workforce and to the FE college workforce (for staff providing education) before the appointment is made.

Recruitment and Vetting Checks

4.3. Safeguarding children must be everybody's responsibility. Good safeguarding practice therefore has to be built into routine procedures and practice. Nowhere is this more important than in the recruitment and vetting of people who have contact with children.

4.4. It is vital that local authorities, schools and FE colleges, as well as agencies that supply staff to the education sector and those that contract with the education sector to provide services that give rise to contact with children, adopt robust recruitment and vetting procedures that minimise the risk of employing people who might abuse children, or are otherwise unsuited to work with them.

4.5. This chapter provides guidance on the range of checks that must or should be carried out including those to ensure risk of harm to children is minimised. It aims to assist all schools, including non-maintained and independent schools, FE colleges, local authorities exercising education functions, and supply agencies, to ensure the full range of checks are carried out so as to minimise the possibility of children and young people suffering harm from those who they consider to be in positions of trust.

4.6. Recruitment and vetting checks are a key element in the work to ensure that children are safeguarded and the risk of harm from those who are in contact with them in whatever capacity is minimised. It is important to have good systems in place

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to identify abuse, well trained staff who know what to do if a child is abused, and guidance to staff on how to ensure that their behaviour and actions do not place pupils or themselves at risk of harm or of allegations of harm to a child. Chapter 2, Safeguarding Children in Education, sets out the duty of local authorities, schools of all kinds, and FE colleges, to have arrangements for carrying out their functions with a view to safeguarding and promoting the welfare of children; Chapter 3 provides guidance on good practice in safer recruitment.

4.7. Schools and local authorities also need to ensure they are satisfied that appropriate checks and child protection procedures are in place for those staff that work with young people outside of the school, for example 14-16 year olds studying at college as part of their Key Stage 4 studies. The requirements for safeguarding of pupils and students in workplace placements and elsewhere are detailed in Annex A paragraph 2 and Appendix 14.

Checks on People who will be working with Children in the Education Sector

Flowcharts illustrating the process are in Appendices 5, 6 and 7.

4.8. Those who employ people to work in schools, or FE college staff providing

education, **must** carry out the following recruitment and vetting checks on intended new appointees:

- identity checks (paragraphs 4.13–4.14);
- List 99 checks (paragraphs 4.15–4.17);
- CRB Disclosures, including an application for a children’s suitability statement. CRB Disclosures are not required where the person has worked in a relevant post within the 3 months prior to appointment (paragraphs 4.18–4.27);
- checks to confirm qualifications that are a legal requirement for the post, including Qualified Teacher Status, registration with the GTC and medical fitness requirements where appropriate (paragraphs 4.28 and 4.29);
- checks to confirm the right to work in the United Kingdom (paragraph 4.72);
- where the appointee has lived outside the United Kingdom, further checks as are considered appropriate where obtaining a CRB Disclosure is not sufficient to establish suitability to work with children (paragraph 4.65).

4.9. With the exception of CRB Disclosures, the above checks must be completed **before** a person’s appointment. In the case of CRB Disclosures, the certificate must be obtained before, or as soon as practicable after, appointment. A record must be kept to show that the above checks have been carried out for all relevant employees (paragraph 4.54).

4.10. The requirement to carry out the above checks applies to school, college and local authority staff who make relevant appointments. The requirement also applies to supply agencies providing individuals to work in schools and FE colleges.

4.11. In the case of agency staff provided to schools and FE colleges, agencies are required to carry out the same checks as schools and colleges do for their staff, and schools and colleges must confirm with the agency that the appropriate checks have been carried out and are satisfactory. Schools and colleges must also ask if the CRB Disclosure contains information and obtain a copy of the CRB Disclosure from

the agency where it discloses information. Paragraphs 4.61 and 4.62 and Appendix 11 provide additional guidance on agency staff.

4.12. In addition to the above mandatory checks, those who employ people to work in schools, or FE college staff providing education, should carry out the following checks on intended new appointees:

- professional and character reference checks (paragraphs 4.30–4.36);
- checks on previous employment history (paragraphs 4.37).

As well as checking employees and supply staff, schools and FE colleges should carry out checks on all who seek positions in schools and FE colleges which involve contact with children, for example volunteers and governors (paragraphs 4.56–4.58). Schools and colleges should also ensure that those contracting with them to provide services that give rise to contact with children are carrying out appropriate checks (paragraph 4.76). Flowcharts illustrating the process are in Appendices 5, 6 and 7.

The Checks

Identity

4.13. It is important to be sure that the person is who he or she claims to be. The employer **must** ask to see proof of identity such as a birth certificate, driving licence, or passport combined with evidence of address, before an appointment is made. Some form of photographic identity should be seen except where for exceptional reasons none is available. Please note that proof of identity is required in connection with an application for a CRB Disclosure. In summary, the proof should include name, date of birth, address and photographic identity.

4.14. If a teacher or worker is provided by a third party, such as an employment business or agency, the school, local authority, or FE college **must** check that the person who comes to them is the person referred by the employment business or agency by carrying out the identity checks as at paragraph 4.13 above.

List 99

4.15. List 99 checks **must** be undertaken for all school staff including local authority employed school staff, and staff providing education in FE colleges before they begin work. List 99 checks are usually completed as part of the CRB Enhanced Disclosure request at paragraphs 4.16–4.21 below (see paragraph 4.16 for the exception with regard to FE colleges). It is important when completing a CRB Disclosure request that the relevant statement is ticked on the

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Disclosure form confirming that employment involves working with children. When a person applies for a CRB Disclosure to verify their suitability to work with children the Disclosure will contain details of whether they are included on List 99 and/or the Protection of Children Act (PoCA) List. A separate List 99 check will not be required unless the CRB Disclosure remains outstanding at the time the individual begins work. See Appendix 9 for further information about the Disclosure service. Information on checking List 99 pending a CRB Disclosure is available from Tsm.Casework@dfes.gsi.gov.uk (telephone: 01325 392101).

4.16. Teachers seeking positions in FE colleges where they will be dealing only with students over 18 years of age will not be entitled to a Standard or Enhanced CRB Disclosure, as those positions are not covered by the exceptions to the Rehabilitation of Offenders Act 1974. However, List 99 checks must be obtained on these people. Employers of people who fall into this category should contact the DfES Children's Safeguarding Operations Unit at Tsm.Casework@dfes.gsi.gov.uk (telephone: 01325 392101), to obtain details of how they can access the checks.

4.17. List 99 is a confidential document maintained by the Department, which contains the names, dates of birth, National Insurance numbers and in the case of teachers, the teacher reference number, of people whose employment in relevant employment has been barred or restricted by the Secretary of State. It is an offence for relevant employers to knowingly appoint someone to a post from which

they have been barred. A person whose employment has been restricted by the Secretary of State may only work in a post which does not contravene the terms of the restriction. See Appendix 12 (Criminal Justice and Court Services Act 2000) for details of regulated positions and employment.

CRB Disclosures

4.18. The following are examples of positions which are exempted from the provisions of the Rehabilitation of Offenders Act 1974, and individuals **must** be asked by employers to declare any convictions, cautions or reprimands, warnings or bind-overs which they have incurred, including any that would be regarded as 'spent' under the Act in other circumstances. If a person is subsequently selected for appointment for such a position, the employer **must** ask them to apply to the CRB for a CRB Enhanced Disclosure to verify their declaration (see Appendix 9 for further information about the CRB Disclosure service):

- any work in a school; or
- any position involving unsupervised contact with a child under arrangements made by the child's parents or guardian, the child's school or a registered day care provider; or
- a position as a governor of a school, FE college, including sixth form college, ³⁹ which involves regular work in the presence of, or care for, children, or training, supervising or being in sole charge of children; or
- any position in which the normal duties include providing education and regularly caring for, training, supervising or being in sole charge of children or young people under the age of 18 in an FE college including sixth form colleges.

4.19. The School Staffing (England) (Amendment) Regulations 2006 and the intended School Staffing (England) (Amendment) (No 2) Regulations 2006 make it mandatory for CRB Enhanced Disclosures to be obtained on all newly appointed school staff. The intended Further Education (Providers of Education)

(England) Regulations 2006 make CRB Enhanced Disclosures mandatory for those of the FE workforce who provide education and have regular care for, train, supervise, or have sole charge of persons aged under 18. In the case of schools, this includes those who do not work directly with children, for example admin staff, caretakers and other ancillary staff. By newly appointed staff we mean anyone who within the three months before his or her appointment has not worked in:

- a school in a post in England which brought him or her into regular contact with children or any post they were appointed to since 12 May 2006; or
- an FE college and the new appointment will be one providing education and regularly caring for, training, supervising, or being in sole charge of children or young people under the age of 18.

Guidance on obtaining and dealing with CRB Disclosures is at Appendix 9.

CRB Disclosures and Existing Staff

4.20. Schools, FE colleges or local authorities are not required to ask existing staff, in post, who were not previously eligible (including those recruited before the establishment of the CRB) for criminal background checks to apply for a CRB Disclosure, unless:

- they have concerns about the person's suitability to work with children; or
- an individual moves to work that involves greater contact with children and their previous work did not require a CRB Enhanced Disclosure.

A key exception to this is set out in paragraphs 4.65–4.66 – checks on overseas staff.

CRB Disclosures when Someone moves School, Local Authority, or FE College

4.21. A new CRB Disclosure is not required when someone moves school, local authority or FE college. A new CRB Disclosure is only required if an individual has not worked in:

- a school in a post which brought him or her into regular contact with children or any post since 12 May 2006; or

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□□an FE college within the three months before his or her appointment, and the new appointment will be one providing education and regularly caring for, training, or being in sole charge of children or young people under the age of 18.

However, employers are reminded that they must ensure that all the other recommended and mandatory prerecruitment checks are carried out, including List 99.

CRB Disclosures for Supply Staff

4.22. Schools, local authorities and FE colleges must check with the relevant supply agency, and obtain written confirmation that all appropriate checks have been undertaken. They must also see a copy of the CRB Disclosure in cases where the Disclosure contains information.

Is a CRB Disclosure necessary for everyone that visits or works in a school or FE college?

4.23. It is not necessary to obtain a CRB Disclosure for visitors who will only have contact with children on an ad hoc or irregular basis for short periods of time, or secondary pupils undertaking voluntary work or work experience in other schools. However, it is good practice to ensure that visitors sign in and out, and are escorted whilst on the premises by a member of staff; or appropriately vetted volunteer. Examples of people who do not need to apply for a CRB Disclosure include:

- visitors who have business with the head teacher, principal or other staff or who have brief contact with children with a member of staff present;
- visitors or contractors who come on site only to carry out emergency repairs or service equipment; and who would not be expected to be left unsupervised on school premises;
- volunteers or parents who only accompany staff and children on one off outings or trips that do not involve overnight stays, or who only help at specific one off events e.g. a sports day, school fete, college open day;
- secondary pupils on key stage 4 work

experience in other schools, colleges or nursery classes; secondary pupils undertaking work in another school or college as part of voluntary service, citizenship or vocational studies; or key stage 5 or sixth form pupils in connection with a short careers or subject placement. In these cases the school placing the pupil should ensure that s/he is suitable for the placement in question;

□□ people who are on site before or after school or college hours and when children are not present, e.g. local groups who hire premises for community or leisure activities, cleaners who only come in after children have gone home, or before they arrive.

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Starting Work Pending a CRB Disclosure

4.24. Ideally, where a CRB Disclosure is required, it should be obtained before an individual begins work. It must in any case be obtained as soon as practicable after the individual's appointment and the request for a CRB Disclosure should be submitted in advance of the individual starting work. Head teachers, principals and local authorities have discretion to allow an individual to begin work within their schools or colleges pending receipt of the CRB Disclosure but should ensure that the individual is appropriately supervised; and that all other checks, including List 99, have been completed. Information on checking List 99 pending a CRB check is available from Tsm.Casework@dfes.gsi.gov.uk (telephone 01325 392101).

4.25. Appropriate supervision for individuals who start work prior to the result of a CRB Disclosure being known needs to reflect what is known about the person concerned, their experience, the nature of their duties and the level of responsibility they will carry. For those with limited experience and where references have provided limited information the level of supervision required may be high. For those with more experience and where the references are detailed and provide strong evidence of good conduct in previous

relevant work a lower level of supervision may be appropriate. For all staff without completed CRB Disclosures it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision spelt out. The arrangements should be reviewed regularly, at least every two weeks until the CRB Disclosure is received.

4.26. Before taking on a member of supply staff from an agency, a school or FE college must obtain a written notification from the agency that indicates that relevant CRB Disclosures have been requested for that individual, outlines whether or not the CRB Disclosure has been received, and if received, whether it included any disclosed information. Where there is disclosed information, the school must obtain a copy of the CRB Disclosure from the agency. If the CRB Disclosure has not been received yet by the agency, the school must require the agency to notify it of the content as soon as it is received.

4.27. Where a CRB Disclosure indicates cause for concern for agency or directly employed staff, the member of staff must immediately be withdrawn from the school pending further enquiries. If the Disclosure refers to additional information see paragraph 4.62.

Qualification Requirements

4.28. Employers must always verify that the candidate has actually obtained any qualifications legally required for the job and claimed in their application e.g. by asking to see the relevant certificate or diploma, or a letter of confirmation from the awarding institution. If original

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documents are not available, employers should see a properly certified copy.

4.29. For those applying for posts in schools, the qualifications legally required for the job may include Qualified Teacher Status, National Professional Qualification for Headship, registration with the GTC and medical fitness requirements.

Professional and Character References

4.30. The purpose of seeking references is to obtain objective and factual information

to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. “To Whom It May Concern”. There have been instances of candidates forging references, and open references or testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments.

4.31. Ideally, references should be sought on all short listed candidates, including internal ones, and should be obtained before interview so that any issues of concern they raise can be explored further with the referee, and taken up with the candidate at interview. In exceptional circumstances it might not be possible to obtain references prior to interview, either because of delay on the part of the referee, or because a candidate strongly objects to their current employer being approached at that stage, but that should be the aim in all cases. It is up to the person conducting the recruitment to decide whether to accede to a candidate’s request to approach his or her current employer only if s/he is the preferred candidate after the interview, but it is not recommended as good practice.

4.32. In any case where a reference has not been obtained on the preferred candidate before interview, the prospective employer must ensure that it is received and scrutinised, and any concerns are resolved satisfactorily, before the person’s appointment is confirmed.

4.33. All requests for references should seek objective verifiable information and not subjective opinion. The use of reference pro formas can help achieve that. A copy of the job description and person specification for the post for which the person is applying should be included with all requests, and every request should ask:

- about the referee’s relationship with the candidate, e.g. did they have a working relationship: if so what; how long has the referee known the candidate, and in

what capacity;

- whether the referee is satisfied that the person has the ability and is suitable to undertake the job in question, and for specific comments about the applicant's suitability for the post, and how s/he has demonstrated that s/he meets the person specification;

- whether the referee is completely satisfied that the candidate is suitable to

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work with children, and, if not, for specific details of the referee's concerns and the reasons why the referee believes the person might be unsuitable;

and should remind the referee that:

- they have a responsibility to ensure that the reference is accurate and does not contain any material misstatement or omission; and

- relevant factual content of the reference may be discussed with the applicant.

4.34. In addition to the above, requests addressed to a candidate's current or previous employer in work with children, should also seek:

- confirmation of details of the applicant's current post, salary, and sick record;

- specific verifiable comments about the applicant's performance history and conduct;

- details of any disciplinary procedures the applicant has been subject to in which the disciplinary sanction is current;

- details of any disciplinary procedures the applicant has been subject to involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, and the outcome of those; and

- details of any allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns e.g. whether the allegations or concerns were investigated, the conclusion reached, and how the matter

was resolved.

4.35. On receipt references should be checked to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered or the reference is vague or unspecific, the referee should be contacted and asked to provide written answers or amplification as appropriate. The information given should also be compared with the application form to ensure that the information provided about the candidate and his or her previous employment by the referee is consistent with the information provided by the applicant on the form. Any discrepancy in the information should be taken up with the applicant.

4.36. Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Cases in which an issue was satisfactorily resolved some time ago, or an allegation was determined to be unfounded or did not require formal disciplinary sanctions, and in which no further issues have been raised, are not likely to cause concern. More serious or recent concerns, or issues that were not resolved satisfactorily are more likely to cause concern. A history of repeated
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concerns or allegations over time is also likely to give cause for concern.

Previous Employment History

4.37. Employers should always ask for information about previous employment and obtain satisfactory explanations for any gaps in employment. If a candidate for a teaching post is not currently employed as a teacher, it is also advisable to check with the school, FE college or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving.

Health

4.38. Anyone appointed to a post involving regular contact with children or young people must be medically fit (see the Education (Health Standards) (England) Regulations 2003). It is the statutory responsibility of employers to satisfy

themselves that individuals have the appropriate level of physical and mental fitness **before** an appointment offer is confirmed. Circular 4/99 relating to medical fitness is in the process of being updated and the revised version will provide more detailed guidance and contact information.

Additional Checks on Those Applying For Teaching Posts in Schools

4.39. All teachers working in teaching posts in maintained schools, nonmaintained special schools and pupil referral units in England must register with the General Teaching Council for England (GTC), unless they are exempt from the requirement to hold Qualified Teacher Status (QTS) (see 4.40–4.41). Employers must check with the GTC whether teachers applying for positions in such schools are registered with the Council, whether any GTC restrictions are in force against the teacher, and, where appropriate, whether they have Qualified Teacher Status and have completed their induction period. Local authorities can do this on-line; schools which are employers can call the employer access line on 0870 0014823.

Qualified Teacher Status (QTS)

4.40. No person may teach in a maintained school or a non-maintained special school unless s/he:

- has qualified teacher status (QTS), otherwise known as a “qualified teacher”; or
- falls within one of the special categories specified in the Education (Specified Work and Registration) (England) Regulations 2003 (S.I. No.1663).

4.41. The special categories specified in the Education (Specified Work and Registration) (England) Regulations 2003 are:

- student teachers
- instructors with special qualifications or experience
- overseas trained teachers
- teacher trainees who have yet to pass the skills tests but have not yet taught for a total of five years
- graduate teachers
- registered teachers
- staff on an employment-based teacher

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training scheme

4.42. Support staff (such as Higher Level Teaching Assistants and Teaching Assistants) may also teach, provided:

- they do so in order to assist or support the work of qualified teachers and are subject to their direction and supervision, in accordance with arrangements made by the head teacher; and
- the head teacher is satisfied that they have the skills, expertise and experience required to teach.

Note: If a candidate has a DfES reference number this does not necessarily mean that s/he has QTS.

4.43. Employers need to be aware that the checks obtained through the GTC are complementary checks and must not be regarded as a substitute for other recruitment checks.

Induction

4.44. Teachers who obtained QTS after 7 May 1999, including those who have followed an employment-based training programme, must have successfully completed a statutory induction period within the set time period if they are to work in maintained schools and nonmaintained special schools in England.

Induction certificates are issued by the GTC. They can work in schools while gaining their induction.

Further Education: Recognised Teaching Qualifications

4.45. The FE college should carry out List 99 checks for teachers and staff providing education, as outlined **throughout** this guidance, and must carry out CRB Enhanced Disclosures on those providing education and who regularly care for, train, supervise or have sole charge of persons aged under 18. This applies to teachers who are already qualified, working towards being qualified or those who are not yet qualified.

4.46. Government is committed to having a fully qualified teaching workforce in FE by 2010. FE colleges must check the qualifications of new FE teachers. Regulations passed in 2001 required all

new FE teachers to hold, or be working towards, a recognised teaching qualification. Full-time teaching staff must become qualified within two years of a place becoming available on an approved training course. For part-time staff the requirement is up to four years.

4.47. Accepted qualifications are Post Graduate Certificate of Education (PGCE) or Certificate of Education (Cert. Ed) awarded by a Higher Education Institute (HEI), or the FE Teaching Certificate conferred by an Awarding Body. Following consultation with key sector partners on reforming ITT, *Equipping our Teachers for the Future: Reforming Initial Teacher Training for the Learning and Skills Sector* was published in November 2004. The reforms set out a new award of “Qualified Teacher Learning and Skills” and courses for this and Initial (Passport to Teaching) Award will commence in September 2007.

4.48. From its inception in January 2005, Lifelong Learning UK (LLUK) has operated a helpline funded by the Department for Education and Skills (DfES) to advise enquirers about appropriate training to become qualified as a teacher in the learning and skills (including FE) sector. Please telephone: 020 7936 5798; visit the website: <http://www.lluk.org.uk> or email: helpline@lifelonglearninguk.org

Single Central Record of Recruitment and Vetting Checks

4.49. In addition to the various staff records which are kept as part of normal business, schools and FE colleges must also keep and maintain a single central record of recruitment and vetting checks.

4.50. Schools and FE colleges must have a record of the following people:

- all staff who are employed to work at the school and those staff in FE colleges providing education;
- all staff who are employed as supply staff to the school or FE college whether employed directly by the school, FE college or local authority or through an agency;
- the record should also include all others who have been chosen by the school or

FE college to work in regular contact with children. This will cover volunteers, governors who also work as volunteers within the school, and people brought into the school to provide additional teaching or instruction for pupils but who are not staff members, e.g. a specialist sports coach or artist. The record must be in place from 1 January 2007 for all staff and other relevant individuals (as set out above) appointed or chosen on or after that date. By 1 April 2007 the record must include all current staff and relevant individuals appointed or chosen before 1 January 2007.

4.51. For the purposes of creating the record of checks for supply staff provided through a supply agency (whether local authority or commercial), the school or FE college will need written confirmation from the supply agency that it has satisfactorily completed the checks described in paragraph 4.8. The school or FE college does not need to carry out or see the checks itself except where there is information contained in the CRB Disclosure. However, identity checks must be carried out by the school or FE college to confirm that the individual arriving at the school or FE college is the individual that the agency intends to refer to them. See paragraphs 4.59 and 4.62 and Appendix 11 for further information on what schools and FE colleges need to do when taking on supply staff through a supply agency, and Appendix 11 for guidance for agencies supplying staff to schools and FE colleges.

4.52. Information disclosed as part of a CRB Disclosure must be treated as confidential.

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It is an offence for CRB Disclosure information to be passed to anyone who does not need it in the course of their duties. A Disclosure may be passed from agency to agency, between local authorities and agencies, and between schools/colleges and agencies if the subject gives written consent. Regulations under the Police Act also authorise passing Disclosure information from agencies to schools or FE colleges where the subject's suitability for

work at the school or college is under consideration. The Disclosure information must be kept in secure conditions and must be destroyed, by secure means, as soon as it is no longer needed.

4.53. However, before the Disclosure is destroyed, records need to be kept detailing the date the Disclosure was obtained, who obtained it (i.e. school, FE college, local authority, supply agency), the level of the Disclosure, and the unique reference number. The head teacher or principal or college or local authority will also want to consider keeping a note of what other information was used to assess suitability.

4.54. The central record must indicate whether or not the following have been completed:

- Identity checks;
- Qualification checks for any qualifications legally required for the job e.g. those posts where a person must have QTS, NPQH, or, in FE colleges, another accepted qualification such as PGCE, Cert Ed. Additionally, for those applying for teaching posts, registration check with the GTC where appropriate;
- Checks of permission to work in the United Kingdom;
- List 99 checks;
- CRB Enhanced Disclosure (in FE colleges **only** for those staff providing education and who have regular care for, train, supervise or have sole charge of persons aged under 18); and
- Further overseas criminal records checks where appropriate (see paragraphs 4.65 to 4.71 for advice on staff who have lived or worked outside the United Kingdom).

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Name Address Date of birth & date required: yes/no & date
Evidenced: evidenced & date
Qualifications: evidenced & date
Qualifications Check: evidenced & date
Check: required
Check: Yes / No
Checks: Yes / No

4.55. The record must also show the date on which each check was completed or the relevant certificate obtained, and should show who carried out the check.

Above is a suggested format for the central record.

Volunteers

4.56. We recognise that many parents and other volunteers help regularly in the classroom and with activities associated with the school or FE college. Some will require a CRB Disclosure because of the frequency of their volunteering activity and the contact they have with children, others will not. We suggest, however, that schools do not check existing volunteers continuing with their old duties, unless they have cause for concern. For new volunteers, or those changing duties to ones that will bring them into increased contact with children, head teachers or principals should consider obtaining enhanced CRB Disclosures where the volunteering is regular and involves contact with children. Regular is defined as three or more times in a 30 day period, or overnight. In coming to a decision, head teachers/principals will want to consider:

- the duration, frequency and nature of contact with children; and then
- what the school knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers;
- whether the volunteer is well known to others in the school community who are likely to be aware of behaviour that could give cause for concern;
- whether the volunteer has other employment, or undertakes voluntary activities where referees would advise on suitability; and
- any other relevant information about the volunteer or the work they are likely to do.

4.57. This information will allow head teachers and principals to make a risk assessment, and use their professional judgement and experience in deciding whether a CRB Disclosure is necessary. Under no circumstances must a volunteer who has not obtained a CRB Disclosure, because perhaps he or she does not require a Disclosure due to infrequent contact with children, be left unsupervised with children. Appendix 13 provides case studies which may help in making

decisions on whether volunteers should be asked to obtain a CRB Disclosure.

Governors

4.58. In line with other volunteers, governors in positions that include regular work in the presence of children, or who care for, train, supervise or are in sole charge of children should be asked to obtain an Enhanced Disclosure from the Criminal Records Bureau. In addition, any governor giving cause for concern should also be asked to obtain an Enhanced Disclosure. All others should be asked to sign a declaration confirming their suitability to fulfil the role. Further advice

⁴⁹

on governors can be found at:

<http://www.dfes.gov.uk/governor/index.cfm>

Supply Staff

4.59. It is important that thorough checks are made on anybody who will be working in a school or FE college (including sixth form colleges), both to prevent unsuitable people from gaining access to children and young people and to maintain the integrity of the teaching profession and confidence that schools and colleges are safe places for children and young people. The same range of checks are necessary for school staff and staff in FE colleges providing education who have regular care for, train, supervise or have sole charge of persons aged under 18. The same range of checks are also required for supply staff, including those that are employed via employment agencies.

4.60. Where supply staff are employed directly by the school or FE college, the school or FE college must complete all relevant checks as for other employed staff. Schools and FE colleges must record whether those checks have been carried on the single central record as at paragraphs 4.49 to 4.55.

4.61. Before taking on a member of supply staff provided by a supply agency, the school or FE college must obtain written confirmation from the agency that the checks the school or FE college is required to carry out for its own employees have been undertaken by the agency. In relation to CRB Disclosures the written notification

from the agency must confirm that relevant CRB Disclosures have been requested for that individual, whether or not the Disclosure has been received, and if received, whether it included any disclosed information. Where there is disclosed information, the school or FE college must obtain a copy of the CRB Disclosure from the agency. If the CRB Disclosure has not yet been received by the agency, the school must require the agency to notify it of the content as soon as the Disclosure is received. The school or FE college must require the supply agency to provide the written notifications and copies of CRB Disclosures where appropriate through the contract or other arrangements which it makes with the supply agency. Schools and FE colleges must record whether they received confirmation of relevant checks from the supply agency (and copies of CRB Disclosures where appropriate) on the single central record as at paragraphs 4.49 to 4.55.

4.62. If the CRB Disclosure refers to the existence of information additional to what is on the face of the Disclosure, the supply agency cannot provide the school with a copy of that information. The school, if they want to engage the person, should carry out a repeat CRB Disclosure and not employ the person until they receive the new Disclosure. Where an individual is provided by an agency, the school, local authority or FE college must check that the person who comes to them is the person referred by the agency by carrying out the identity checks of paragraph 4.13.

4.63. Guidance for agencies supplying staff to schools and FE colleges is given at Appendix 11.

4.64. Schools may wish to be aware of the DfES Quality Mark for supply agencies and local authorities with supply pools. Those awarded the Quality Mark have been inspected by the Recruitment and Employment Confederation and found to comply with good recruitment practices. They are specifically signed up not only to performing all the required checks (which

of course all agencies have to do), but also to good practice in recruitment and development of the staff they supply. Further details of the standards they sign up to are at:

<http://www.rec.uk.com/rec/about-therec/quality-mark.aspx>.

Staff who have lived outside the United Kingdom

4.65. Newly appointed staff who have lived outside the United Kingdom must undergo the same checks as for all other staff in schools and FE colleges. This includes a CRB Disclosure and List 99 check. In addition, employers must make such further checks as they consider appropriate due to the person having lived outside the United Kingdom, taking account of this guidance. These further checks must be completed prior to an individual starting work.

4.66. In addition all staff who have lived outside the United Kingdom and were recruited since March 2002 should have CRB Disclosures undertaken where this has not been done, unless the individual had within the three months before his or her appointment worked in:

- a school in a post which brought him or her into regular contact with children or any post they were appointed to since May 2006; or
- an FE college in a post providing education and regularly caring for, training, or being in sole charge of children or young people under the age of 18.

This will bring the checks, including CRB Disclosures, for this group of staff in line with those completed on teachers who have never lived or worked abroad, and recruited into the workforce since March 2002. Schools and colleges should complete any checks that are outstanding for this group of staff by July 2007.

Why is a CRB Disclosure not always sufficient for those who have lived abroad?

4.67. CRB Disclosures will not generally show offences committed by individuals whilst living abroad (except in the case of

service personnel and their families, as detailed in paragraph 4.73). Therefore, in addition to an enhanced CRB Disclosure, additional checks such as obtaining certificates of good conduct from relevant embassies or police forces are necessary.

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The level of information contained in these certificates varies from country to country: some are complete extracts from the criminal record; others are partial.

4.68. However, head teachers, principals, and local authorities will have discretion to allow an individual to begin work pending receipt of the CRB Disclosure, with the key exception at 4.62. Where it is necessary to engage a member of staff where the CRB Disclosure remains outstanding, head teachers, local authorities and principals must ensure that the employee is appropriately supervised, and the request for a CRB Disclosure has been submitted, in advance of the individual starting work.

4.69. In the case of staff who have lived abroad, if, in the opinion of the local authority, school, or FE college, the CRB Disclosure is unlikely to provide sufficient information, based on how long the individual has been in the UK then other checks, including obtaining certificates of good conduct from relevant embassies or police forces as appropriate, must be completed prior to the individual starting work or volunteering activity. The level of information contained in these certificates varies from country to country: some are complete extracts from the criminal record; others are partial.

4.70. Further information about the criminal record information which may be obtained from overseas police forces and countries, is available from the CRB at www.crb.gov.uk.

4.71. Where an applicant is from or has lived in a country where criminal record checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK, and has no means of obtaining relevant information, employers must take extra care in taking up references and carrying out other background checks. For example,

additional references should be sought, and references followed up by phone as well as letter. Following up references with telephone calls is good practice for all recruits.

Right to Work in the UK

4.72. Employers must confirm the right of those they employ to work in the UK.

Further information and details on work permits and immigration documents are at Appendix 8, together with information on permission to work in the UK.

Forces Staff and their Families

4.73. All Service Personnel are subject at all times to the Service Discipline Acts (SDA), as are their families and UK based civilians (UKBC) when based or employed overseas.

All convictions under the Military Criminal Justice System for recordable offences committed by service personnel (in the UK and overseas) or civilians subject to the Service Discipline Acts (overseas only) are recorded on the UK Civilian Police National Computer (PNC) and are available to CRB as part of their routine checks. In addition, CRB has access to information held at the Service Police Crime Bureau (SPCB) in

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relation to serving or former members of the Armed Forces.

Contractors

Building contractors

4.74. Children should not be allowed in areas where builders are working for health and safety reasons, so these workers should have no contact with children.

However schools and FE colleges should ensure that arrangements are in place with contractors, via the contract where possible, to make sure that any of the contractors' staff that come into contact with children undergo appropriate checks. See paragraph 4.23 for emergency call out contractors.

PFI and Other Contractors

4.75. PFI contract staff, for example caretakers and caterings staff, must be checked by the contractor in the same way as school employees (i.e. with a CRB Disclosure), and such requirements form part of the contract. The outcome of such checks must be notified to the local

authority. The contractor is also responsible for ensuring that the same procedures are followed by any sub contractors. The contractor must provide the local authority with a list of its direct employees and those of any subcontractors at least 20 days before they start work on site.

Checks on Other Public Sector staff

4.76. Individuals such as psychologists, nurses, dentists, centrally employed teachers and other public sector staff will have been checked by their employing organisation, whether local authority, Primary Care Trust or Strategic Health Authority. It is not necessary for schools or FE colleges to see their CRB Disclosure as appropriate checks will have been carried out. Schools and FE colleges will however want to check identity and any other checks currently carried out to ensure imposters do not gain access to children.

Applicants for Teacher Training Courses

4.77. For applicants for initial teacher training, the initial teacher training provider should ensure that an enhanced CRB Disclosure is applied for when a place at a teacher training institution has been accepted, so that Disclosures are received prior to the trainee commencing school and FE college based elements of their training. However, head teachers and principals will have discretion to allow an individual to begin school and FE college based training pending receipt of the Disclosure, provided they have had a List 99 check. Where this is necessary, training providers, head teachers and principals must ensure that the trainee is appropriately supervised.

Fraudulent Applications

4.78. Serious, deliberate fraud or deception in connection with an application for employment may amount to a criminal

⁵³ offence (Obtaining Pecuniary Advantage by Deception). In such cases the employer should in addition to any planned disciplinary action, consider reporting the matter to the police. The case should also be reported to the Secretary of State (see Appendix 10 for further information about

reporting misconduct).

Extended Schools

4.79. Many primary and secondary schools already offer breakfast and after school clubs and other services. This provision is developing further as part of the extended schools agenda, with all schools offering a wide range of services by 2010, including childcare, study support, a range of family learning and parental support, swift and easy referral to a range of specialised services for pupils and community use of the school's facilities such as sports and ICT. These services will be offered either on the school site, on other school sites, or through other providers.

4.80. Requirements placed upon schools relating to existing staff and volunteers at the school will extend to incorporate those involved in the provision of extended services. So where the governing body provides services or activities directly under the supervision or management of school staff, the school's arrangements for appointments, recruitment and vetting checks and record keeping will apply. Where schools are planning to deliver childcare directly, they should contact Ofsted for information about the registration process as childcare provision for children aged under eight must currently be registered separately by Ofsted.

4.81. Where a third party is responsible for running the services there should be clear lines of accountability and written agreements setting out responsibility for carrying out the recruitment and vetting checks on staff and volunteers. This also applies in the case of Sure Start Children's Centres which will increasingly be situated on school sites. Local authorities can advise schools on registered providers with whom they might link to provide services.

4.82. Schools that choose to provide their childcare through private or voluntary sector providers should use Ofsted registered providers for provision for children aged under eight years. Ofsted will apply to the CRB for Enhanced Disclosures in the case of the registered

childcare provider (including the people who make up the provider in the case of corporate bodies or unincorporated associations) and the manager. It is the responsibility of the childcare provider to make sure that any new members of staff, or new people who live or work on the premises are suitable to care for or have regular contact with children. The registered childcare provider must ensure that their staff and volunteers are not listed on PoCA by applying to the CRB for an Enhanced Disclosure. Under the national standards for under eights day care and childminding the registered person ensures that a person who has not been

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vetted is never left alone with children.

Where the provider is not registered with Ofsted (i.e. where the provision is for children over eight only), the school should check that the provider has made such checks and has arrangements in place to carry them out.

4.83. Written agreements should be in place with any third party providers or groups using the site. These should set out the respective responsibilities of the governing body and those of the provider or group. Local authorities are well placed to advise on the practical implementation of extended services, and to share written agreements that have worked well elsewhere. These should set out responsibility for areas such as health and safety, recruitment and vetting checks. Where services are being developed, the schools' insurance provider should be consulted to ensure that the provision is covered adequately. All staff and providers working on or managing the site out of hours should have training on issues such as emergency evacuation procedures. Staff and their professional associations must know who they are accountable to and for what and must be consulted when services are developing.

4.84. Child and user safety is paramount. Schools should only work with providers that can demonstrate that they have effective procedures, training and vetting arrangements for their staff, appropriate

child/adult ratios and contingency arrangements in place for emergencies or the unexpected e.g. arrangements for managing in the event that a child is not picked up after a session run by a provider. If a registered childcare provider for under eights is used, then these areas are covered by the provider's adherence to the national standards which can be found at <http://www.surestart.gov.uk/improvingquality/ensuringquality/standardsregulation/>

4.85. Where the governing body provides services or activities directly under the supervision or management of school staff, the school's arrangements for staff appointments will apply. Governors need to be aware that it is their responsibility to ensure that proper records are kept.

4.86. These examples do not make up definitive guidance, but show how risk can be considered in deciding whether a CRB Disclosure is appropriate.

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Case Study:

Mr Higgins has a contract with the governing body of a primary school in Redditch to provide a breakfast club, called Great Nosh for Hungry Kids. Before the contract with Mr Higgins was signed, the school governors asked to see a copy of his recruitment and checking procedures and child protection policy and made arrangements to review these annually. Mr Higgins was also asked to include in his procedures that he would pass on to the school any child protection concerns that he might have. The governors agreed that they would reciprocate in providing such information to Mr Higgins if there were similar concerns that might impact on the club.

Case Study:

A primary school in Reading provides an after school club for 1.5 hours every week day. The school governors ensure that checks (including CRB) are undertaken on all the staff other than those who already work in the school and where checks have already been done. The governor with special

responsibility for child protection issues makes sure that appropriate records are kept, that they are secure but accessible to anyone authorised to see them.

Where services or activities are provided separately by another body, the governing body should be satisfied that the provider concerned has appropriate policies and procedures, including those for staff appointments in place in regard to safeguarding children and child protection and there are arrangements to liaise with the school on these matters where appropriate.

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Introduction

5.1. This chapter is about managing cases of allegations that might indicate that a person is unsuitable to continue to work with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a teacher or member of staff (including a volunteer) in a school, FE college or other education establishment that provides education for children under 18 years of age 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

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Chapter 5: Dealing With Allegations of Abuse Against Teachers and Other Staff

Summary

It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in an education setting is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child, and at the same time supports the person who is the subject of the allegation.

The framework for managing cases of allegations of abuse against people who work with children is set out in *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children* (April 2006) which provides an overview, and in Appendix 5 of this guidance which provides detailed procedures on how allegations should be handled.

This chapter explains how those procedures should be applied specifically in the education sector. Like Chapters 2, 3, and 4 of this guidance it is relevant for the purposes of s157 and s175 of the Education Act 2002.

All schools, including non-maintained schools, independent schools, and academies, FE colleges, and local authorities exercising education functions, should use this guidance to review and, where appropriate, modify their practice and procedures for dealing with allegations of abuse made against teachers and education staff.

- behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.

5.2. All schools and FE colleges should have procedures for dealing with allegations, and all staff and volunteers should understand what to do if they receive an allegation against another member of staff, or if they themselves have concerns about the behaviour of another member of staff. The procedure should make it clear that all allegations should be reported straight away, normally to the head teacher or principal, and identify the person, often the chair of governors¹⁰, to whom reports should be made in the absence of the head teacher or principal, or in cases where the head teacher or principal is the subject of the allegation or concern. Procedures should also include contact details for the designated local authority officer responsible for providing advice and monitoring cases.

5.3. There may be up to 3 strands in the consideration of an allegation:

- a police investigation of a possible criminal offence;
- enquiries and assessment by children's social care about whether a child is in need of protection or in need of services;
- consideration by the school or FE college of disciplinary action in respect of the individual¹¹.

Some cases will also need to be reported to DfES for consideration of including the person on List 99, or consideration by the General Teaching Council (GTC), about possible sanctions against an individual.

Supporting those involved

5.4. Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it (subject to

paragraph 5.15). They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including the outcome of any disciplinary process. Please note that the deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but the parents or carers of the child should be told the outcome.¹²

5.5. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social

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¹⁰ References to the chair of governors or the governing body of a school or FE college should be taken to be a reference to the proprietor in the case of an independent school.

¹¹ In some circumstances the school at which the person works will need to consider a case in which normal disciplinary procedures do not apply, and may need to act jointly with another organisation. That will be necessary when, for example, an allegation is made against a supply teacher provided by an employment agency or business, or against a person employed by a contractor, or a volunteer provided by a voluntary organisation. In some cases normal disciplinary procedures may not be appropriate because the person is a volunteer or self employed. Although in those cases the school or FE college will not have a direct employment relationship with the individual, it and the other organisation concerned, if any, will need to be involved and cooperate in an investigation, and in reaching a decision about whether to continue to use the person's services, or to provide the person for work with children in future, and whether to report the person to DfES.

¹² In deciding what information to disclose, careful consideration should be given to duties under the Data Protection Act 1998, the law of confidence and, where relevant, the Human Rights Act 1998.

care, or the police as appropriate, should consider what support the child or children involved may need.

5.6. The school or FE college should also keep the person who is the subject of the allegations informed of the progress of the case and consider what other support is appropriate for the individual. For staff in maintained schools that may include support via the local authority occupational health or employee welfare arrangements. If the person is suspended, the school or FE college should also keep the individual informed about developments at school or FE college. If the person is a member of a union or professional association s/he should be advised to contact that body at the outset.

Confidentiality

5.7. Every effort should be made to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. In accordance with the Association of Chief Police Officers' (ACPO) guidance the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with

a criminal offence. (In exceptional cases where the police might depart from that rule, e.g. an appeal to trace a suspect, the reasons should be documented and partner agencies consulted beforehand.) The system of self-regulation, overseen by the Press Complaints Commission, also provides safeguards against the publication of inaccurate or misleading information.

Resignations and Compromise Agreements

5.8. The fact that a person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the person should be given a full opportunity to answer the allegation and make representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

5.9. By the same token so called "compromise agreements" by which a person agrees to resign, the school or FE college agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, ⁵⁹ must not be used in these cases. In any event, such an agreement will not prevent a thorough police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to List 99 where circumstances require that.

Record Keeping

5.10. It is important that 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, is kept on a person's confidential personnel file, and a copy provided to the person concerned. The purpose of the record is to enable accurate information to be given in response to any future request for a reference if the person has moved on. It will provide clarification in cases where a future CRB Disclosure reveals information from the police about an allegation that did not result in a criminal conviction. And it will help to prevent unnecessary reinvestigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the person has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Timescales

5.11. It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. Every effort should be made to manage cases to avoid any unnecessary delay. Indicative target timescales are shown for different actions in the summary description of the process below. Those are not performance indicators: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness and complexity of the allegation, but they provide useful targets to aim for that are achievable in many cases. *Working Together to Safeguard Children* states that it is reasonable to expect that 80 per cent of cases should be resolved within one month, 90 per cent within three months, and all but the most exceptional cases should be completed within 12 months.

Oversight and Monitoring

5.12. Local authorities with responsibility for schools should have a named senior officer who has overall responsibility for oversight of the procedures for dealing

with allegations; for resolving any interagency issues, and for liaison with the Local Safeguarding Children Board (LSCB) on the subject. In addition, designated local authority officers should also be involved in the management and oversight of individual cases. The designated local authority officer(s) will provide advice and guidance to schools and FE colleges, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process.

5.13. Police forces should also identify officers to fill similar roles: a senior officer

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to have strategic oversight of the arrangements and ensure compliance; and others, perhaps unit managers, who will be responsible for: liaising with the designated local authority officer(s), taking part in the strategy discussion, or initial evaluation, subsequently reviewing the progress of those cases in which there is a police investigation, and sharing information on completion of the investigation or any prosecution.

Initial Considerations

5.14. The procedures need to be applied with common sense and judgement. In rare cases allegations will be so serious as to require immediate intervention by children's social care and/or police. Others that meet the criteria in paragraph 5.1 may seem much less serious and on the face of it will not warrant consideration of a police investigation, or enquiries by children's social care. However, it is important to ensure that even allegations that appear less serious are seen to be followed up and taken seriously, and that they are examined objectively by someone independent of the school or FE college concerned. Consequently, the local authority designated officer should be informed of all allegations that come to the school's or FE college's attention and appear to meet the criteria in paragraph 5.1, so that s/he can consult police and social care colleagues as appropriate. The local authority designated officer should

also be informed of any allegations that are made directly to the police (which should be communicated via the police force's designated officer) or to children's social care.

5.15. The local authority designated officer's first step will be to discuss the allegation with the head teacher/principal (or chair of governors) to confirm details of the allegation and establish that it is not demonstrably false or unfounded. If the parents/carers of the child concerned are not already aware of the allegation, the designated officer will also discuss how and by whom they should be informed. In circumstances in which the police or social care may need to be involved, the local authority officer should consult those colleagues about how best to inform parents. However, in some circumstances the school or FE college may need to advise parents of an incident involving their child straight away, for example if the child has been injured while at school or FE college, or in a school or FE college related activity, and requires medical treatment.

5.16. The head teacher/principal should inform the accused person about the allegation as soon as possible after consulting the local authority designated officer. However, where a strategy discussion is needed, or police or children's social care may need to be involved, the Head or principal should not do that until those agencies have been consulted, and have agreed what information can be disclosed to the person. If the person is a member of a union or professional

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association s/he should be advised to contact that organisation at the outset.

5.17. If the allegation is not demonstrably false or unfounded, and there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with paragraph 5.54 of *Working Together to Safeguard Children*. Please note that in these cases the strategy discussion should include a representative of the school or FE college (unless there are good reasons not to do that), and take account

of any information the school or FE college can provide about the circumstances or context of the allegation and the pupil and member of staff concerned

5.18. In cases where a formal strategy discussion is not considered appropriate because the threshold of “significant harm” is not reached, but a police investigation might be needed, the local authority designated officer should nevertheless conduct a similar discussion with the police, the school or FE college, and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with. (Please note that the police must be consulted about any case in which a criminal offence may have been committed.) Like a strategy discussion, that initial evaluation may not need to be a face to face meeting. It should share available information about the allegation, the child, and the person against whom the allegation has been made, consider whether a police investigation is needed and if so, agree the timing and conduct of that. In cases where a police investigation is necessary the joint evaluation should also consider whether there are matters which can be taken forward in a disciplinary process in parallel with the criminal process, or whether any disciplinary action will need to wait completion of the police enquiries and/or prosecution.

5.19. If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take account of the fact that teachers and other school and FE college staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour, under s550A of the Education Act 1996. DfES guidance about that can be found at: http://www.dfes.gov.uk/publications/guidanceonthelaw/10_98/summary.htm

5.20. If the complaint or allegation is such that it is clear that an investigation by police and/or enquiries by social care are not necessary, or the strategy discussion or initial evaluation decides that is the case, the local authority designated officer

should discuss next steps with the head teacher/principal and chair of governors. In those circumstances the options open to the school or FE college depend on the nature and circumstances of the allegation and the evidence and information available, and will range from taking no further action to summary dismissal or a decision not to use the person's services in future.

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5.21. In some such cases further enquiries will be needed to enable a decision about how to proceed. If so, the local authority designated officer should discuss with the head teacher/principal and chair of governors how and by whom the investigation will be undertaken. In straightforward cases that should normally be undertaken by a senior member of the school or FE college staff. However, in other circumstances, lack of appropriate resource within a school or FE college, or the nature or complexity of the allegation will require an independent investigator. Many local authorities already provide for an independent investigation of allegations in some way, often as part of the personnel services that schools and FE colleges can buy in from the authority. It is important that local authorities ensure that schools and FE colleges have access to an affordable facility for independent investigation where that is appropriate.

Suspension

5.22. The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed – in respect of the child(ren) involved in the allegations, and any other children in the individual's home, work or community life. In some cases that will require the school or FE college to consider suspending the person until the case is resolved.

5.23. Suspension should be considered in any case where there is cause to suspect a child is at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. However, a person must not be suspended automatically, or without careful thought. Schools and FE

colleges must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children until the allegation is resolved, and may wish to seek advice from their personnel adviser. Schools and FE colleges should also consider whether the result that would be achieved by suspension could be obtained by alternative arrangements.

5.24. Neither the local authority, the police, nor children's social care, can require a school or FE college to suspend a member of staff or a volunteer. The power to suspend is vested in the head teacher or principal and the governing body of the school or FE college. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by social care and/or an investigation by the police, the local authority designated officer should canvass police and social care views about whether the accused member of staff needs to be suspended from contact with children, to inform the school or FE college's consideration of suspension.

Monitoring Progress

5.25. The local authority designated officer should regularly monitor the progress of cases either via review strategy discussions or by liaising directly with the police and/or children's social care colleagues, or the
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employer as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

5.26. If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible that review should take place **no later than four weeks** after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

Information Sharing

5.27. In a strategy discussion or the initial evaluation of the case the agencies concerned should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

5.28. Wherever possible the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the school for disciplinary purposes. That should be done as their investigation proceeds rather than after it is concluded. That will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

5.29. Children's social care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation is in need of protection or services so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the school or FE college without delay.

Action Following a Criminal Investigation or a Prosecution

5.30. The police or the Crown Prosecution Service (CPS) should inform the school or FE college and local authority designated officer straightaway when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged. In those circumstances the local authority designated officer should discuss with the head teacher or principal and chair of governors whether any further action, including disciplinary action is appropriate and, if so, how to proceed. The information provided by the police and or children's social care should inform that decision. The options will depend on the circumstances of the case and the consideration will need to take account of the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

Action on Conclusion of a Case

5.31. If the allegation is substantiated and the person is dismissed or the school or FE

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college ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the local authority designated officer should discuss with the school or FE college and its personnel adviser whether a referral to DfES for consideration of List 99 action or by the GTC is required, or advisable, and the form and content of a referral.

5.32. In cases where it is decided on the conclusion of the case that a person who has been suspended can return to work, the school or FE college should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The school or FE college should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still attending the school or FE college.

Learning Lessons

5.33. At the conclusion of a case in which an allegation is substantiated the local authority designated officer should review the circumstances of the case with the head teacher and chair of governors to determine whether there are any improvements to be made to the school's or FE college's procedures or practice to help prevent similar events in the future.

Action in respect of False Allegations

5.34. If an allegation is determined to be false, the local authority designated officer should refer the matter to children's social care to determine whether the child concerned is in need of services, or may have been abused by someone else. In the rare event that an allegation is shown to have been deliberately invented or malicious, the head teacher or principal should consider whether any disciplinary action is appropriate against the pupil who made it, or the police should be asked to consider

whether any action might be appropriate against the person responsible if s/he was not a pupil. The next section summarises the process for dealing with allegations.

Summary of Process

Allegation made to school or FE college

5.35. The allegation should be reported to the head teacher or principal immediately unless the allegation is about the head teacher or principal in which case it should be reported to the chair of governors.

5.36. If the allegation meets any of the criteria set out in paragraph 5.1, the head teacher or principal should report it to the local authority designated officer the same day.

Allegation made to the police or children's social care

5.37. If an allegation is made to the police, the officer who receives it should report it to the force designated liaison officer without delay and the designated liaison

officer should inform the local authority designated officer straight away. Similarly if the allegation is made to children's social care the person who receives it should report it to the local authority designated officer without delay.

Initial consideration

5.38. The local authority designated officer will discuss the matter with the head teacher or principal and where necessary obtain further details of the allegation and the circumstances in which it was made. The head teacher or principal should not investigate the allegation at this stage. The discussion should also consider whether there is evidence or information that establishes that the allegation is false or unfounded.

5.39. If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the local authority designated officer will immediately refer to children's social care and ask for a strategy discussion in accordance with *Working Together* to be convened straight away. In those circumstances the strategy discussion should include the local authority designated officer and the head teacher or

principal.

5.40. If there is not cause to suspect that “significant harm” is an issue, but a criminal offence might have been committed, the local authority designated officer should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve the school or FE college and any other agencies involved with the child.

Action following initial consideration

5.41. Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it. In such cases, if the nature of the allegation does not require formal disciplinary action, the head teacher should institute appropriate action **within three working days**. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held **within 15 working days**.

5.42. Where further investigation is required to inform consideration of disciplinary action the head teacher or principal and the school or FE college personnel adviser should discuss who will undertake that with the local authority designated officer. In some settings and circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the school or FE college. In any case the investigating officer should aim to provide a report to the employer **within 10 working days**.

5.43. On receipt of the report of the disciplinary investigation, the head teacher and chair of governors should consult the local authority designated officer, and decide whether a disciplinary hearing is needed **within two working days**. If a

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hearing is needed it should be held **within 15 working days**.

5.44. In any case in which children’s social care has undertaken enquiries to determine whether the child or children are in need of protection, the head teacher or principal and chair of governors should take account of any relevant information

obtained in the course of those enquiries when considering disciplinary action.

5.45. The local authority designated officer should continue to liaise with the school or FE college to monitor progress of the case and provide advice or support when required or requested.

Case subject to police investigation

5.46. If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible, consistent with a fair and thorough investigation, and will keep the progress of the case under review. They should at the outset set a target date for reviewing progress of the investigation and consulting the CPS about whether to proceed with the investigation, charge the individual with an offence, or close the case. Wherever possible that review should take place **no later than four weeks** after the initial action meeting and if the decision is to continue to investigate the allegation dates for subsequent review should be set at that point. (It is open to the police to consult the CPS about the evidence that will need to be obtained in order to charge a person with an offence at any stage.).

5.47. If the police and/or CPS decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should wherever possible aim to pass all information they have which may be relevant to a disciplinary case to the employer within three working days of the decision. In those circumstances the employer and the local authority designated officer should proceed as described in paragraphs 5.41 to 5.45 above. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, any information obtained in the course of those enquiries which is relevant to a disciplinary case should also be passed to the school or FE college.

5.48. If the person is convicted of an offence the police should also inform the employer straight away so that appropriate

action can be taken.

Referral to DfES

5.49. If on conclusion of the case the school or FE college ceases to use the person's services, or the person ceases to provide his or her services, the school or FE college should consult the local authority designated officer about whether a referral to DfES is required. If a referral is appropriate the report should be made within one month. See Appendix 10 for guidance on reporting individuals to the Secretary of State.

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1. This annex includes information and links to sources of further advice and guidance about a variety of issues that relate to helping keep children safe from abuse and neglect. Issues include: workplace placements, abuse of trust, physical contact and restraint, training, educating children through the PSHE curriculum, listening to children, and some issues that can make children more vulnerable or should be regarded as abuse.

Pupils/Students in Workplace Placements

2. There are occasions when children and young people are placed in settings outside a normal school or FE college setting. This might be as work experience at Key Stage 4, under the Increasing Flexibility agenda or alternative provision arrangements. KS4 work experience arrangements have operated for many years without any problems, and there is comprehensive guidance about those in the publication *Work Experience and the Law* available to order from www.teachernet.gov.uk/childprotection/guidance.htm

3. More recently, however, long term placements for pupils or students undertaking vocational training or studying for vocational qualifications have become more common, and children can be in workplace settings on a regular basis for periods of several months or longer. Children are more vulnerable to abuse or harm in these situations than in short term placements, and therefore child protection arrangements are a relevant concern for longer term placements. Schools and FE

colleges organising long-term placements need to ensure that policies and procedures are in place to protect children and young people from harm, focusing greatest protection on settings in which children may be most at risk, for example when children will be placed for long periods in one to one situations with an adult. Employers and training organisations need to be made aware of safeguarding issues and asked to cooperate in putting appropriate safeguards in place.

4. These requirements do not apply to short-term extended work experience

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Annex A: Safeguarding Children – Additional Guidance and Advice

lasting one term or less, as the amount of time involved is broadly the same as conventional block work experience. For example, it would not normally be necessary to apply additional safeguards for a placement of, say 10 weeks for half a day or a day per week for students on an Increased Flexibility or Applied GCSE programme (unless any of the conditions set out in paragraph 5 below apply).

5. Additional safeguards will be necessary for other placements that are in the same workplace when one or more of the following conditions apply. The placement is:

- (a) for more than one day per week;
- (b) for longer than one term in any academic year;
- (c) aimed at children who may be vulnerable, e.g. those who have special needs or are young (aged under 16);
- (d) one where the workplace supervisor or a colleague will have substantial unsupervised access to the child, because of the nature of the business (i.e. micro business, sole trader or

journeyman); or
(e) one which has a residential component.

6. If any of the conditions in paragraph 5 apply, the following safeguards should be in place:

□□ staff of the local authority, school, or FE college who arrange, vet, or monitor work placements should have had training in child protection;

□□ training organisations or employers taking responsibility for a child or children on a long-term placement should be asked to make a commitment to safeguarding their welfare by endorsing an agreed child protection policy or statement of principles.

□□ any person whose normal duties will include regularly caring for, training, looking after or supervising a child in the workplace should be vetted and subject to CRB Disclosures to ensure s/he is not disqualified from working with children or otherwise unsuitable to be responsible for them. This should not include people who will have contact with the child simply because s/he will be in the same location, or as part of their work. It is intended to apply to people who are specifically designated to have responsibility for looking after, supervising or directly training a child or children throughout the placement. CRB Disclosures should normally be arranged by the organisation arranging the placement, through the local authority, school or FE college, and the person should be regarded as a volunteer for the purpose of the Disclosure.

□□ that person should also be given basic child protection training to be aware of their responsibilities in accordance with *What To Do If You're Worried A Child Is Being Abused*. They should be given details of a person to contact in the event that there are any concerns about a child for whom they are responsible.

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□□ the children who are placed in these settings should also be given clear advice about who to contact if they are worried or uncomfortable about their

surroundings or if they suffer abuse. They should have a continuing point of regular contact within the school or FE college and be given opportunities to raise any concerns they may have.

□□ School, FE college or local authority policies and procedures should define what actions need to be taken by whom and when if any child protection issues are raised prior, during or after the placement.

□□ in some cases it is also important to ensure that the child or student concerned is suitable for the placement (for example, when placing children in environments involving them working with younger children) and in some circumstances CRB Disclosures may be required.

7. Further information about the Increased Flexibility programme for 14–16 year olds, and guidance about vetting people working with children, is available at Appendix 14.

Abuse of Trust

8. All education staff need to know that inappropriate behaviour with or towards children is unacceptable. In particular, under the Sexual Offences Act 2003 it is an offence for a person over 18 (e.g. teacher, youth worker) to have a sexual relationship with a child under 18 where that person is in a position of trust in respect of that child, even if the relationship is consensual. This applies where the child is in full-time education and the person works in the same establishment as the child, even if s/he does not teach the child. Further information can be found at:

www.teachernet.gov.uk/childprotection/guidance.htm

Physical Contact with Pupils/Restraint

9. It is not realistic to suggest that teachers should never touch pupils, and they, and other staff in schools or FE colleges, have the right to use reasonable force to control or restrain pupils in certain circumstances. Guidance about this can be found in DfES Circular 10/98 *The Use of Force to Control or Restrain Pupils* at:

www.teachernet.gov.uk/childprotection/

guidance.htm

10. Additional guidance for local authorities and special schools on the use of restrictive physical interventions with children who display extreme behaviour is contained in DfES documents LA/0242/2002 *Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders*, and LEA/0264/2003 *Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties*. These can be found at:

www.teachernet.gov.uk/childprotection/guidance.htm

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Child Protection Training

11. All staff who work with children need to have basic child protection training that equips them to recognise and respond to child welfare concerns. The depth and detail of training needed by different groups will vary according to the nature of their role and the extent of their involvement with children.

12. Teachers should receive training in child protection as part of the course of training leading to QTS, but this may need to be reinforced by further training, or refresher training, when they are first appointed. Other staff, and governors, should receive training when they are first appointed. All staff who do not have designated responsibility for child protection, including teachers, should undertake suitable refresher training at three yearly intervals thereafter to keep their knowledge and skills up to date.

13. When staff with designated lead responsibility for child protection take up that role, they should receive training in inter-agency procedures that enables them to work in partnership with other agencies, and gives them the knowledge and skills needed to fulfil their responsibilities. They should also undertake refresher training at two yearly intervals after that to keep their knowledge and skills up to date.

14. All staff, whether permanent or

temporary, and volunteers who will work with children should be given a written statement about the school or FE college's policy and procedures, and the name and contact details of the designated person when they start work in a new establishment.

Educating Children About Issues (PSHE)

15. It is important to make children and young people aware of behaviour towards them that is not acceptable and how they can help keep themselves safe. The nonstatutory framework for Personal, Social and Health Education (PSHE) provides opportunities for children and young people to learn about keeping safe; and who to ask for help if their safety is threatened. As part of developing a healthy, safer lifestyle pupils should be taught, for example:

- to recognise and manage risks in different situations and then decide how to behave responsibly;
- to judge what kind of physical contact is acceptable and unacceptable;
- to recognise when pressure from others (including people they know) threatens their personal safety and well-being and develop effective ways of resisting pressure, including knowing when and where to get help;
- to use assertiveness techniques to resist unhelpful pressure.

16. Issues such as domestic violence and abuse can be difficult to broach directly in the classroom. However, discussions about personal safety and keeping safe can reinforce the message that any kind of violence is unacceptable; let children and young people know that it is okay to talk

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about their own problems; and signpost sources of help. Raising these issues can lead children to bring up personal problems and concerns, and staff delivering lessons on these subjects need to be prepared for that possibility.

17. Links to more information about PSHE, classroom resources and sources of support, are available at:
www.teachernet.gov.uk/childprotection/guidance.htm

Listening to Children

18. Experience, and consultation with children, shows that they will talk about their concerns and problems to people they feel they can trust and they feel comfortable with. This will not necessarily be a teacher. It is therefore essential that all staff and volunteers in a school, FE college or other education establishment know how to respond sensitively to a child's concerns, who to approach for advice about them, and the importance of not guaranteeing complete confidentiality.

19. Children also want to know that they will be listened to and their concerns will be taken seriously, so all education establishments should seek to demonstrate to children that they provide them with a safe environment where it is okay to talk. Displays of helpful information about such things as national children's help lines (ChildLine, NSPCC) and peer support schemes for children and young people in easily accessible places (e.g. on pupils' year planners) can encourage them to share concerns and help provide assurance about that.

20. Any member of staff or volunteer who is approached by a child wanting to talk should listen positively and reassure the child. They should record the discussion with the pupil as soon as possible and take action in accordance with the establishment's child protection procedures.

21. The available UK evidence on the extent of abuse among disabled children suggests that some may be especially vulnerable to abuse, for example those who have difficulty communicating. Learning support assistants working with children with special educational needs and disabilities provide close support to them and may encounter indications of possible abuse. Whilst extra care may be needed to ensure that signs of abuse and neglect are interpreted correctly, any suspicions should be reported in exactly the same manner as for other children.

22. The way in which a member of staff talks to a child who discloses abuse could

have an effect on the evidence that is put forward if there are subsequent proceedings, and it is important that staff do not jump to conclusions, ask leading questions, or put words in a child's mouth. If a child makes a disclosure to a member of staff s/he should write a record of the conversation as soon as possible, distinguishing clearly between fact, observation, allegation and opinion, noting any action taken in cases of possible abuse, and signing and dating the note.

23. Staff must also be aware that:

- it is not the responsibility of teachers or other staff or volunteers in schools and FE colleges to investigate suspected cases of abuse;
- they should not take any action beyond that agreed in the procedures established by the LSCB; and
- they cannot promise a child complete confidentiality – instead they must explain that they may need to pass information to other professionals to help keep the child or other children safe.

If You Have Concerns About a Child's Welfare

24. Where there are concerns about a child's welfare, relevant agencies need to be involved at an early stage. If a member of staff or a volunteer has concerns about a child's welfare, or if a child discloses that s/he is suffering abuse or reveals information that gives grounds for concern, the member of staff should speak to their designated person with a view to passing on the information. *What To Do If You're Worried A Child Is Being Abused* sets out what should happen next.

25. Abuse or neglect can have a damaging effect on a child's health, educational attainment and emotional well-being. Staff may see changes of behaviour or attendance patterns in existing pupils which are likely to adversely impact on a child's performance at school. Such changes may not necessarily indicate that a child is suffering abuse or neglect. In some cases those changes may be the symptoms of a hidden disability, or undiagnosed medical condition, and the

need to distinguish those cases reinforces the need for a careful and thorough assessment of the child and his or her needs when concerns are passed on.

26. Children can be put at risk of harm by a variety of behaviours. Some examples with links to further information or guidance (although not an exhaustive list) are included below whilst others can be found at:

www.teachernet.gov.uk/childprotection

Drug/Alcohol Abusing Parents

27. Drug and alcohol abuse by parents can have a serious effect on their children. 70% of children taken into care have parents who are suspected of substance abuse. Not all parents who abuse drugs or alcohol mistreat or neglect their children. But sometimes they can be put at considerable risk.

28. There is an increased risk of violence in families where parents abuse substances. Children can suffer from lack of boundaries and discipline, and live chaotic lives. This can seriously affect their psychological and emotional development and may cause problems with their relationships later on in life.

29. The children who are most vulnerable are those whose parents are violent,

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aggressive, neglectful or rejecting. These children can remain “invisible” from the services intended to support them unless their behaviour attracts attention at school, FE college or elsewhere outside the home.

30. The Advisory Committee on Misuse of Drugs report on children of drugmisusing parents, *Hidden Harm* can be

found at: www.teachernet.gov.uk/childprotection/guidance.htm

Domestic Violence

31. The effect of domestic violence on children is such that it must be considered as abuse. Either witnessing it or being the subject of it is not only traumatic in itself but is likely to adversely impact on a child and it should be treated as physical or emotional abuse as appropriate.

32. Statistics confirm the strong link between domestic violence and child abuse. One in three child protection cases

show a history of domestic violence to the mother. Children in violent households are three to nine times more likely to be injured and abused, either directly or while trying to protect their parent.

33. It is widely accepted that there are dramatic and serious effects of children witnessing domestic violence, which often result in behavioural issues, absenteeism, ill health, bullying, anti-social behaviour, drug and alcohol misuse, self-harm and psychosocial impacts. Growing up in a violent household is also a major factor in predicting delinquency.

34. Moving from the former family home to new accommodation may mean that children have to change school or FE college. Any change of school or FE college can be a difficult time for a family, but the particular circumstances associated with escape from domestic violence can make it an even more difficult occasion, particularly if there is an appreciable delay before a school or FE college place can be found. If the mother changes her address often or enters a refuge to escape her violent partner, social isolation and loss of friends add to the child's insecurity. Schools and FE colleges should develop protocols focusing on the special needs and requirements of vulnerable children attending from a refuge environment.

35. Further information is available at: www.teachernet.gov.uk/childprotection/guidance.htm

Children and Young People who Sexually Abuse

36. A distinction needs to be drawn between behaviour best dealt with by anti-bullying policies and more complex behaviour which can be particularly sexually harmful and where both the perpetrator and the victim may need specialist help. Abuse is not just an adult crime. Children can pose a threat either physical or sexual to other children. Even when sexualised behaviour is identified and a pupil is on a treatment programme, they still have to be educated and managed in a school or FE college setting. Management of this behaviour in school or

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FE college needs to be approached on a whole school, FE college, classroom, curriculum and individual level.

37. Further information is available at: www.teachernet.gov.uk/childprotection/guidance.htm

Sexual Exploitation of Children

38. Children involved in prostitution and other forms of commercial sexual exploitation are victims of abuse and should be treated as such. Their needs will require careful assessment as this problem is often hidden from view. Guidance on *Safeguarding Children Involved In Prostitution* issued by the Department of Health, Home Office, Department of Education and Employment and the National Assembly for Wales in 2000 stresses that all agencies should treat the child primarily as a victim of abuse and should work together to provide them with strategies to exit prostitution. A copy of the text of the guidance can be found at: www.teachernet.gov.uk/childprotection/guidance.htm.

This guidance is currently being updated.

Female Genital Mutilation

39. This form of physical abuse involves female genital mutilation (FGM) by way of female circumcision, excision or infibulation. FGM is extremely harmful. It is not like male circumcision. It causes longterm mental and physical suffering, difficulty in giving birth, infertility and even death. It cannot be justified as a cultural or religious practice. Leaders of all the main faiths have spoken out against it.

40. It is much more common than most people realise. Best estimates suggest there are around 74,000 women in the UK who have undergone the procedure, and about 7,000 girls under 17 who are at risk.

41. The Female Genital Mutilation Act 2003 was brought into force on 3 March 2004 and makes it an offence for the first time for UK nationals or permanent UK residents to carry out FGM abroad, or to aid, abet, counsel or procure the carrying out of FGM abroad, even in countries where the practice is legal.

42. To reflect the serious harm that

FGM causes, the Act also increases the maximum penalty from 5 to 14 years' imprisonment. Further information can be found at: www.teachernet.gov.uk/childprotection/guidance.htm

Forced Marriages

43. Forced marriage is a marriage conducted without the full consent of both parties and where duress is a factor. It is an entirely separate issue from arranged marriage, and the two things should not be confused. Forced marriage is a human rights abuse and falls within the Crown Prosecution Service definition of domestic violence. Young people at risk of a forced marriage may be experiencing emotional and/or physical abuse at home.

44. The FCO and DfES have produced practical guidance for education

⁷⁵ professionals, 'Dealing with Cases of Forced Marriage', which is available at www.fco.gov.uk.

45. If there are concerns that a child (male or female) is in danger of a forced marriage, schools and FE institutions should contact the Government's Forced Marriage Unit, where experienced caseworkers are able to offer support and guidance (www.fco.gov.uk or 020 7008 0230). The police and children's social care should also be contacted. All those involved should bear in mind that mediation as a response to forced marriage can be extremely dangerous. Refusal to go through with a forced marriage has, in the past, been linked to so-called 'honour crimes'.

46. The flow chart on page 78 is taken from *Young People and Vulnerable Adults facing Forced Marriage: Practice Guidance for Social Workers* (www.teachernet.gov.uk/childprotection/guidance.htm) and shows the steps that are followed in dealing with cases of forced marriage.

Parental Involvement

47. All parents need to understand that schools and FE colleges have a duty to safeguard and promote the welfare of children who are their pupils or students, that this responsibility necessitates a child

protection policy and procedures, and that a school or FE college may need to share information and work in partnership with other agencies when there are concerns about a child's welfare. It may be helpful to include a reference to this in the establishment's prospectus or other information provided to parents and pupils or students.

48. In general professionals should seek to discuss any concerns about a child's welfare with the family and, where possible, seek their agreement to making referrals to children's social care. However this should only be done where it will not place a child at increased risk of significant harm. The child's views should also be considered in deciding whether to inform the family in some circumstances, particularly where the child is sufficiently mature to make informed judgements about the issues, and about consenting to that.

49. Where there are any doubts or reservations about involving the child's family, the designated person should clarify with the statutory agencies, whether, and if so when and by whom, the parents should be told about the referral. That may also be important in cases where the police may need to conduct a criminal investigation. Where appropriate, they should help parents understand that a referral is in the interests of the child and that the establishment will be involved in the s47 enquiry as per the Children Act 1989, or a police investigation. The establishment should keep the parents informed of the educational progress of the child.

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Safeguarding Children and Young Persons in Contact with Higher Education Institutions

50. Currently higher education (HE) institutions are not required by law to obtain CRB Disclosures. However, HE institutions are aware of the need to safeguard children and take this issue very seriously. Most HE institutions have a nominated senior officer with responsibility for safeguarding children;

many have or are developing written policies; and most undertake CRB checks on staff where they consider it appropriate to do so.

51. Some outreach activities, and the staff, volunteers or students engaged on them, may fall under provisions on 'regulated positions' in the Criminal Justice and Court Services Act 2000. The Act defines a 'regulated position', and the definition includes *'a position whose normal duties include caring for, training, supervising or being in sole charge of children'*. In such cases, it is common practice for HE institutions to obtain CRB Disclosures at an enhanced level. As an alternative, HE institutions could ascertain whether an individual is included on List 99 by contacting DfES at Tsm.Casework@dfes.gsi.gov.uk (telephone 01325 392101).

52. HE institutions may also use other people for whom these duties are not a 'normal' part of their position. This includes, for example, undergraduates involved in mentoring children and young people. In such cases, HE institutions may be undertaking risk assessments to determine what action, if any, to take. The action taken will depend on the level of risk identified and may or may not include a CRB Disclosure. This does not mean that every person coming into contact with the child during the activity must obtain a CRB Disclosure. Indeed, it is unlikely that there will be any need to undertake checks on the vast majority of staff at an HE institutions, and CRB checks on undergraduates will be very much the exception.

53. Schools and colleges will want to be sure that, as far as possible, action is taken to minimise risks, including through the use of CRB Disclosures, where appropriate. If an HE institution is unable or unwilling to provide the necessary assurances, the school or college will have to consider the implications for meeting its own responsibilities for safeguarding the children concerned, and for the participation of children under its care

in activities put on by the HE institution.
Such cases are, however, likely to be rare.

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The following guidance issued by the Secretary of State may be relevant when drawing up policies and procedures to safeguard and promote the welfare of children in accordance with Section 175 of the Education Act 2002. All of these documents are available from:
www.teachernet.gov.uk/childprotection/guidance.htm

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Appendix 1: Relevant Guidance

PSHE Sex & Relationship Education Guidance DfEE 0116/2000

Staffing Guidance Under Section 35 (8) and 36 (8) of the Education Act 2002

Extended Schools – Providing Opportunities for All

School Security- A legal toolkit

Child Protection: Procedures for Barring or Restricting People Working with Children in Education (July 2003)

Caring for Young People and the Vulnerable: Guidance for preventing abuse of trust (published by the Home Office, Department for Education and Employment, Department of Health, National Assembly for Wales and the Northern Ireland Office)

Work Related Learning at Key Stage 4: Advice for Practitioners on Legal Background & Other Areas DfES/0132/2003

Tackling Bullying and the “Don’t Suffer In Silence” anti bullying pack for schools

Health & Safety of Pupils on Educational Visits and supplementary guidance

Standards for local authorities in Overseeing Educational Visits

Standards for Adventure

Handbook for Group Leaders

Health and Safety: Responsibilities and Powers DfES/0803/2001

Work Experience: Legal Responsibility and Health and Safety (May 1999)

Safe Keeping – A Good Practice Guide for Health and Safety in Study Support

DfES/0197/2000

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Guidance on First Aid for Schools: Good Practice Guidance

Drugs: Guidance for Schools DfES/0092/2004

Education of Children and Young People in Public Care (published by Department of Health and Department for Education and Skills)

Governors Guides to the Law

Together from the Start: Practical Guidance for Professionals Working With Disabled Children (birth to third birthday) and Their Families LA/0067/2003

SEN Code of Practice DfES/0581/2001

Supporting Pupils with Medical Needs: Good Practice Guidance

Working Together to Safeguard Children (2006) (Published by The Stationery Office on behalf of the Department for Education and Skills)

Framework for the Assessment of Children In Need Practice Guidance (2000) (published by Department of Health, Home Office and Department for Education and Employment)

What to Do if You are Worried a Child is Being Abused. Children's Services Guidance (published by Department of Health, Department of Culture Media and Sports, Department for Education and Skills, Home Office, Office of the Deputy Prime Minister and the Lord Chancellors Department)

Registration of Independent Schools Information Pack

Section 550A of the Education Act 1996: The Use of Force to Control or Restrain Pupils DfEE/10/98

Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders LA/0242/2002

Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties LEA/0264/2003

Safeguarding Children: A Joint Chief Inspectors' Report on Arrangements to Safeguard Children (published by the Department of Health)

Coordination:

- Staff structure to deliver responsibilities.
- Funding for local authority activities.

Provision of advice, guidance and support

- Casework, court appearances, legal issues.
- New legislation.
- Managing reports of missing pupils.
- Allegations against staff.
- Specific circumstances of abuse:
 - Female genital mutilation, forced marriage, fabricated or induced illness, domestic violence, child on child abuse, sexual exploitation, young carers.

Development of good working relationships and partnerships:

- Membership of LSCB.
- Maintaining supportive and effective working relationships within the department and inter agency.
- Network of senior designated persons for child protection.
- Relationships with non-local authority educational establishments and organisations including independent sector and FE colleges.
- Relationships with voluntary groups.

Training and awareness raising:

- Single agency, interagency.
- Written guidance.

Promoting safe and positive environments:

- Recruitment and selection.
- Curriculum (formal and informal).
- Code of conduct for staff.

- Confidentiality, record keeping, transfer of records.
- Support for abused pupils to enable full use of educational opportunities.
- Issues in residential schools.
- Management of allegations:**
- Procedures and guidance.
- Training, links with other agencies, record keeping.
- Monitoring and reporting.
- Casework management.

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Appendix 2: Broad Areas of Responsibility Proposed for Local Authority Lead Officers and Specific Issues within Those Areas

Development and planning:

- Corporate commitment to multi-agency work.
- Local authority policy, overview of local authority activities.
- Development of the work of the local authority: inclusion of child protection in all plans.
- Children's services plans and similar.
- Contribution to the work of the LSCB and its subgroups.
- Development of single agency procedures and practice guidance.
- Specific issues which may have a child protection dimension:
 - Health and Safety, restraint, bullying.
 - School trips, transport of pupils, residential visits, school exchange visits.
 - Child employment, work experience, taking & using images of children.
 - Pupils without a school place.
 - Showers and changing arrangements.
 - Parents and other volunteer helpers.
 - First aid and administration of medicine.

- Extended school arrangements and after school clubs.
- Internet use.
- Children with parents who have mental illness or disability.
- Children with parents who misuse substances or drugs.
- Children in residential schools outside the local authority.

Monitoring:

- ☐☐ Contribution to work of LSCB and departmental Quality Assurance groups.
- ☐☐ Designated Persons and status of training.
- ☐☐ Referrals to SSD (numbers, quality and response).
- ☐☐ Level of child protection activity within schools and links to training received.
- ☐☐ Governors and status of training.
- ☐☐ School policies, Attendance at case conferences.
- ☐☐ Children on the child protection register.
- ☐☐ Procedures and policies are in place in each school.
- ☐☐ Record keeping in schools.
- ☐☐ Compliance with DfES, LSCB procedures or standards.
- ☐☐ Implementation of recommendations of Part 8 reviews or similar.
- ☐☐ Use of restraint.

Accountability:

- ☐☐ Representation of local authority at local and national level.
- ☐☐ Personal training to be able to fulfil the role.

Liaison with Personnel Services Provider:

- ☐☐ Safe recruitment and selection procedures, vetting arrangements.
- ☐☐ Disciplinary procedures and consideration of suspension.

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Referrals

- ☐☐ Refer cases of suspected abuse or allegations to the relevant investigating agencies.
- ☐☐ Act as a source of support, advice and expertise within the educational establishment when deciding whether to make a referral by liaising with relevant agencies.
- ☐☐ Liaise with head teacher or principal

(where role not carried out by the head teacher) to inform him or her of any issues and ongoing investigations and ensure there is always cover for this role.

Training

- To recognise how to identify signs of abuse and when it is appropriate to make a referral.
- Have a working knowledge of how LSCBs operate, the conduct of a child protection case conference and be able to attend and contribute to these effectively when required to do so.
- Ensure each member of staff has access to and understands the school's child protection policy especially new or part time staff who may work with different educational establishments.
- Ensure all staff have induction training covering child protection and are able to recognise and report any concerns immediately they arise.
- Be able to keep detailed accurate secure written records of referrals and or concerns.
- Obtain access to resources and attend any relevant or refresher training courses at least every two years.

Raising Awareness

- Ensure the establishment's child protection policy is updated and reviewed annually and work with the governing body or proprietor regarding this.
- Ensure parents see copies of the child protection policy which alerts them to the fact that referrals may be made and the role of the establishment in this to avoid conflict later.
- Where children leave the establishment ensure their child protection file is copied for the new establishment as soon as possible but transferred separately from the main pupil file.

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Appendix 3: Broad Areas of Responsibility Proposed for the

Designated Senior Person for Child Protection

Planning

Timetable decided: job specification and description and other documents to be provided to applicants reviewed and updated as necessary. Application form seeks all relevant information and includes relevant statements about references etc. – paragraphs 3.17–3.20 and 3.22 to 3.29

VACANCY ADVERTISED (where appropriate)

Advertisement includes reference to safeguarding policy, i.e. statement of commitment to safeguarding and promoting welfare of children, and need for successful applicant to be CRB checked – paragraphs 3.15, 3.16 and 3.21

APPLICATIONS on receipt

scrutinised – any discrepancies/anomalies/gaps in employment noted to explore if candidate considered for short listing – paragraphs 3.30, 3.31 and 3.33

SHORTLIST PREPARED

REFERENCES – seeking

sought directly from referee on short listed candidates: ask recommended specific questions: include statement about liability for accuracy – paragraphs 3.32 and 4.30 to 4.36

REFERENCES – on receipt

Checked against information on application; scrutinised; any discrepancy/ issue of concern noted to take up with applicant (at interview if possible) – paragraphs 4.35 and 4.36

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Appendix 4: Recruitment and Selection Checklist

INVITATION TO INTERVIEW

Includes all relevant information and instructions – paragraphs 3.36–3.39

INTERVIEW ARRANGEMENTS

At least 2 interviewers: panel members have authority to appoint: have met and agreed issues and questions/assessment criteria/standards – paragraphs 3.40–3.42

INTERVIEW

Explores applicants' suitability for work with children as well as for the post – paragraphs 3.43 and 3.44

N.B Identity and qualifications of successful applicant verified on day of interview by scrutiny of appropriate **original** documents:

copies of documents taken and placed on file; where appropriate applicant completed application for CRB Disclosure

– paragraphs 3.37 and 3.38

CONDITIONAL OFFER OF APPOINTMENT: PRE APPOINTMENT CHECKS

offer of appointment is made conditional on satisfactory completion of the following pre-appointment checks and for non-teaching posts a probationary period –

paragraphs 3.45–3.49

REFERENCES (if not obtained and scrutinised previously)

IDENTITY (if that could not be verified straight after the interview) – paragraph 4.13

QUALIFICATIONS (if not verified on the day of interview) – paragraph 4.28

Permission to work in UK if required – paragraph 4.65

CRB – Where appropriate satisfactory CRB Disclosure received – paragraphs 4.18 to 4.21

LIST 99 – person is not prohibited from taking up the post – paragraph 4.15

HEALTH – the candidate is medically fit – paragraph 4.38

GTC England – (for teaching posts in maintained schools and non-maintained special schools) the teacher is registered with the GTC or exempt from registration – paragraph 4.39

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QTS – (for teaching posts in maintained schools the teacher has obtained QTS or is exempt from the requirement to hold QTS (for teaching posts in FE colleges the teacher has obtained a Post Graduate Certificate of Education (PGCE) or Certificate of Education (Cert. Ed) awarded by a Higher Education Institute (HEI), or the FE Teaching Certificate conferred by an Awarding Body – paragraph 4.40

STATUTORY INDUCTION (For teachers who obtained QTS after 7 May 1999) – paragraphs 3.50 and 3.51

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Permission to Work in the UK

Employers, agencies, schools and FE colleges also need to be sure that foreign nationals have permission to work in the UK. Nationals of Gibraltar and of countries within the European Economic Area (EEA) do not need permission to take employment here and can be employed on the same basis as UK nationals. A list of countries within the EEA is given below: EEA Countries including 2004 Accession countries (*): Austria, Belgium, Cyprus, France, Germany, Italy, Luxembourg, Netherlands, Denmark, Iceland, Ireland, Liechtenstein, Norway, UK, Greece,

Portugal, Spain, Austria, Finland, Sweden, Cyprus*, Czech Republic*, Estonia*, Hungary*, Latvia*, Lithuania*, Malta*, Poland*, Slovakia*, Slovenia*.

Nationals of countries marked * (other than Cyprus and Malta) who wish to work for more than one month for an employer in the UK need to register under the Worker Registration Scheme. Once they have worked legally in the UK for more than 12 months without a break there is no need to register on the Worker Registration Scheme. More information can be found at the following link:

http://www.workingintheuk.gov.uk/working_in_the_uk/en/homepage/schemes_and_programmes/worker_reg

There are different arrangements for nationals of Bulgaria and Romania. From 1 January 2007 nationals of Bulgaria and Romania will have the right to travel throughout the EU as their countries join the EU on this date. Skilled Romanian and Bulgarian workers with the right qualifications and experience will continue to be allowed to come to the UK on work permits to take up specific jobs where no suitable UK applicants can be found.

Bulgarian and Romanian workers with high levels of skills and experience will continue to be admitted under the Highly Skilled Migrants Programme. More information can be found at:

<http://www.ind.homeoffice.gov.uk>

Most other foreign nationals will need permission to work in the UK. If there is uncertainty about whether an individual needs permission then prospective employers should contact Work Permits UK

Visa Enquiries at Immigration & Nationality

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Appendix 8: Permission to Work and Documents for Overseas Staff

Directorate, Lunar House, 40 Wellesley Road, Croydon, CR9 2BY. Or telephone the

employer's helpline (0845 010 6677). Under the Education (Specified Work and Registration) (England) Regulations 2003 an overseas trained teacher may work as a teacher in a school in England (other than a pupil referral unit) for a period of up to four years if he has successfully completed a programme of professional training for teachers in any country outside the UK which is recognised by the competent authority in that country. The four year period commences on the day the teacher first worked as a teacher in England and expires four years later, regardless of any breaks in teaching and irrespective of immigration status. In order to continue teaching after this four year period has expired, the overseas trained teacher must have obtained Qualified Teacher Status (QTS) and registered with GTCE. Teachers on TDA's Overseas Trained Teacher Programme who have more than 2 years teaching experience may be exempt from the requirement to complete an induction period. The school should check what age ranges and subjects were covered in initial training, and what practical experience the teacher has gained on or following the training course. When teachers claim to be overseas trained, either within the European Economic Area or elsewhere, employers should ask for proof of their qualifications (originals if possible, or certified copies).

Work Permits

Work permits are only issued for employment in an occupation listed on the Work Permits (UK) Shortage Occupations List. Work permits are not issued for casual or ad hoc work as a supply teacher.

Prospective employers can obtain further advice on work permits from Work Permits (UK), PO Box 3468, Sheffield, S3 8WA (telephone 0114 207 4074).

Applications for a work permit should be made using form WP1 when applying for first work permits, multiple entry work permits and for changes of employment. If the person you want to employ is out of the UK you should apply no more than six months before you want to bring them into the country.

Where an application has been made to

employ a person who is outside of the UK at the time of the application, a work permit will be issued which should be forwarded on to the person overseas so that they can apply for entry clearance. Where the person is already in the UK at the time of the application it is normal practice to issue a letter of permission rather than a work permit. Working holidaymakers are not permitted to switch into work permit employment unless they have spent more than twelve months in total in the UK in this capacity and hold a valid in-country work permit for employment in an occupation listed on the Work Permits (UK) Shortage Occupations List.

Schools can 'download' both e-forms and postal application forms and guidance notes for their own use, at no cost from the work permits part of the website:

www.workingintheuk.gov.uk . You can also

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get forms and guidance notes by phoning Work Permits UK distribution centre on 08705 210224 between 9.00am and 5.00pm, Monday to Friday.

Applications for work permits for teachers are paid for by DFES, who make payments direct to Work Permits UK. Further details of the process that will need to be followed when making applications can be found in the Payment Guidance Notes. These are available from Work Permits UK distribution centre on 08705 210224 or from the work permits part of the website www.workingintheuk.gov.uk

Commonwealth nationals or citizens (except for Lesotho) who have been admitted to the UK as working holidaymakers are permitted to finance their stay by taking casual work incidental to their holiday without needing a work permit. This means that they could work as a supply teacher on a part-time basis for most of their holiday, or full-time for up to half of their holiday (one year maximum). However, on expiry of their working holiday visa they will not be permitted to continue working in the UK. Working holidaymakers are not permitted to switch into work permit employment unless they have spent more than twelve months in total in the UK

in this capacity and hold a valid in-country work permit for employment in an occupation listed on the Work Permits (UK) Shortage Occupations List. All teacher posts in England covering compulsory schooling are currently on the Shortage Occupation List; other posts in education are not. All other non-EEA nationals must have a work permit, Immigration Employment Document, or other specific permission to work in the UK. The IND website contains information for employers about how to ensure potential employees are entitled to work in the United Kingdom. This information includes details about what the legal requirements are and what documentary evidence should be requested from potential employees. The Home Office's employer's helpline (0845 010 6677) can be used by potential employers who need further advice which is not available from the website.

Work permit approvals are sent directly to the school or local authority which signed the work permit application. Work permits are not transferable between employers which means that schools should only be presented with a work permit for which they or their local authority applied. If a school wishes to confirm any of the details or validity of the work permit, they can ring the appropriate Work Permits (UK) Business Team on 0114 207 4074 which will check their records against the reference number on the work permit. Under data protection law, Work Permits (UK) Business Teams are only allowed to disclose details to the employer named on the work permit.

Further Information

For more general information on immigration, work permits and the application process see:

http://www.workingintheuk.gov.uk/working_in_the_uk/en/homepage/work_permits

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Who should register with the CRB?

In the Department's view the following organisations and establishments in the education sector will, or may, need to register to authorise applications for Standard and Enhanced CRB Disclosures:

- i. Local authorities and other

- organisations that provide personnel services to schools;
- ii. diocesan authorities that provide personnel services to aided schools, or intend to make checks on people they nominate as foundation governors of aided schools;
 - iii. independent schools and any maintained schools that provide their own personnel services;
 - iv. FE colleges that provide their own personnel services;
 - v. employment agencies and businesses that provide supply teachers and/or other staff to schools and/or further education colleges;
 - vi. Connexions service partnerships;
 - vii. higher education institutions which provide initial teacher training, or other training that involves students in working with children as part of their course, or that routinely includes students under 18 years of age.

Organisations wishing to register with the CRB directly need to meet a number of registration requirements, which include a volume threshold. Alternatively organisations can access CRB Disclosures through organisations that are already registered with the CRB and who provide an Umbrella service.

Should schools register with the CRB?

Local authorities should act as the registered body and authorise all applications for CRB Disclosures for the schools they maintain and for which they provide personnel services. Other organisations that provide personnel services to schools should also register and arrange checks for their client schools. Only independent schools and any other schools, that provide their own personnel services in-house, for example academies and foundation schools should register with the Bureau in their own right,

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Appendix 9: The Criminal

Records Bureau Disclosure Service

however, there is a threshold limit of 100 checks a year, so any organisation requiring less than this number will need to register via an umbrella body. In the case of community schools that do not obtain personnel services from their local authority, the authority will need to make arrangements with the school, or the body that provides the school's personnel services, to ensure that it is given the assurance that the check on a new employee shows that he or she is not barred. This is necessary to fulfil the authority's statutory duty not to employ a barred person.

How long will it take the CRB to process an application for a CRB check?

The CRB undertakes to provide 90% of Standard Disclosures within 10 days of receiving a correctly completed application form, and 90% of Enhanced Disclosures within 28 days of receiving a correctly completed form.

Who should be asked to apply for a CRB check?

People who are selected for appointment to a position in which the normal duties involve regular contact with children under the age of 18 in an FE college [from autumn 2006, all new FE staff providing education and who regularly care for, train, supervise or have sole charge of persons aged under 18 will have to be checked], and anyone who is selected for appointment to a position in a regulated position set out in section 36 of the Criminal Justice and Court Services Act 2000.

Pupils who undertake short periods of work experience that involve contact with children in other schools or education establishments need not apply for disclosure. However, students who are required to work with children as a necessary part of a training course, e.g. student teachers, nursery nurses, etc,

will need to apply for disclosure when they are accepted onto the course.

Teachers, other staff and volunteers whose job involves regularly caring for, training, supervising or being in sole charge of children under 18 years of age should obtain an Enhanced Disclosure; as must all members of the schools workforce. This includes applicants for teacher training courses, and trainee teachers. School and FE college governors require an Enhanced Disclosure if in positions that include regular work in the presence of children, or where they care for, train, supervise or are in sole charge of children. The DfES School Governors Centre website (<http://www.dfes.gov.uk/governor/index.cfm>) and the A-Z of School Leadership and Management (<http://www.dfes.gov.uk/a-z/home.html>) contain further information about obtaining disclosures on school governors.

Is there a charge for CRB Disclosures?

Yes. See www.crb.gov.uk for up to date charging information. It will be up to employers and organisations which ask for the CRB Disclosure, to decide whether or not they wish to reimburse the applicant or pay on his or her behalf. Volunteers will not be charged for a CRB Disclosure.

What is meant by additional information?

This is information held on local police records, which does not form part of a person's criminal record. It is often called 'non-conviction' information. Each Chief Constable decides what, if any, nonconviction information should be released in response to an application for a CRB Disclosure. While non-conviction information can be included on both copies of the CRB Disclosure, particularly sensitive information, such as details of a police investigation, will be sent under separate cover to the Registered Body only. In these circumstances, the employer's copy of the CRB Disclosure will indicate that the police are sending further information by letter. This information must not be passed on to the applicant and nor should the applicant be alerted to its existence. The recipient is not allowed

to pass on, even to the school, without the permission of the Chief Police Officer.

Can a Registered Person or Body share information from a Disclosure?

The Police Act 1997 makes unauthorised disclosure of any information revealed in Standard or Enhanced CRB Disclosures a criminal offence. However, the Act provides for information to be passed on in various circumstances in addition to those highlighted in paragraph 4.52. For example:

- i. the person who countersigned an application for a CRB Disclosure can share the information with another member of the Registered Body if the other person needs to know the information for the purpose of his or her duties;
- ii. if the person countersigned the application on behalf of another body (e.g. a local authority arranged a Disclosure for a school) the countersignatory can pass the information to that body;
- iii. where a body receives information from a registered person as above, the information can be shared with members of that body who need to know it for the purposes of their duties, and
- iv. information can be passed to a government department.

If anyone in possession of disclosure information is in any doubt about whether he or she can pass on the information to someone else, he or she should seek advice from the lead counter signatory of the registered body which authorised the check.

Supplementary guidance from the Bureau

If a disclosure reveals that the Secretary of State has placed restrictions on a person's employment (on List 99), the person must not in any circumstances be placed in a

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post which would infringe those restrictions.

How does an employer decide whether a person's criminal record is relevant?

An applicant's suitability should be judged

in the light of the results of all the relevant pre-appointment checks carried out on him or her. The fact that a person has a criminal record does not automatically make him or her unsuitable for work with children. Employers, in conjunction with the registered body or person authorised to receive disclosure information, must make a judgement about suitability, taking into account only those offences which may be relevant to the particular job or situation in question. The Department cannot advise employers whether or not they should employ a particular person. In deciding the relevance of convictions a number of points should be considered:

i. **the nature of the offence:** In general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for work with children;

ii. **the nature of the appointment:** Often the nature of the appointment will help to assess the relevance of the conviction. For example, serious sexual, violent, drug or drink offences would give rise to particular concern where a position was one of providing care. Driving or drink offences would be relevant in situations involving transport of children;

iii. **the age of the offence:** Offences which took place many years in the past may often have less relevance than recent offences. However, convictions for serious violent or sexual offences or serious offences involving substance abuse are more likely to give cause for continuing concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation must be weighed against the need to protect children;

iv. **the frequency of the offence:** A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Anyone who is barred from work in the education sector on grounds that he or she is unsuitable to be employed as a teacher

or worker with children and young persons, will also be disqualified from all work with children in a regulated position as set out in section 36 of the Criminal Justice and Court Services Act 2000. It is an offence for a disqualified person to apply for, offer to do, accept or do any work in any of the regulated positions set out in the Act (Appendix 12). It is also an offence for an employer knowingly to offer work in a regulated position, or to procure work in a regulated position for an individual who is disqualified from working with children, or to fail to remove such an individual from such work. The CRB will inform the police if a disqualified person attempts to obtain work with children.

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The CRB website contains guidance for employers on judging the suitability of applicants.

Where can I find out more about the CRB?

Further information about the CRB and its service can be found at: www.crb.gov.uk. Alternatively, the CRB can be contacted by post or telephone. The CRB's address is PO Box 110, Liverpool L69 3EF. The information line number is: 0870 90 90 811 and the registration application line for organisations wishing to register to authorise checks is 0870 90 90822.

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When must a report be made to the Secretary of State?

Reporting Misconduct

Employers and agents in the education sector are required to supply information to the Department where they have ceased to use the services of a person (including a teacher provided by a supply agency, or a volunteer) because they consider that the person is unsuitable to work with children, or as a result of misconduct, or because of a medical condition that raises a possibility of risk to the safety or welfare of children. They are also required to provide information where they would have ceased to use the person's services on these grounds if the person had not ceased to provide them, or might have refrained from making new arrangements for a person on these grounds if the person had

not ceased to make themselves available for work, for example if the person resigned, or left under the terms of a compromise agreement, where the disciplinary process may have been considered had they not done so.

It is also good practice for employers to notify the Department where they have refused employment, paid or unpaid, to an individual on the basis of CRB Disclosure information, where the individual does not already appear on List 99.

The information to be provided to the Department is listed in schedule 1 to the Education (Prohibition from Teaching or Working with Children) Regulations 2003 (SI 2003/1184).

Reports should be made promptly, preferably within a month of the person's dismissal or resignation. Employers should also contact the Department if they have concerns that there may be medical grounds for barring an employee, trainee teacher or prospective trainee teacher from relevant employment. Information about barring on medical grounds is contained in DfEE Circular 4/99, *Physical and Mental Fitness to Teach of Teachers and of Entrants to Initial Teacher Training*.

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Appendix 10: Reporting Individuals to the Secretary of State

What information should be provided to the Department?

The information to be provided to the Department is listed in schedule 1 to the Education (Prohibition from Teaching or Working with Children) Regulations 2003 (SI 2003/1184). Employers are required by the Regulations to report the facts of the case and provide all relevant information, relating to the circumstances of the dismissal or resignation to the Secretary of State. When a person has not been

convicted of an offence, the Secretary of State can only act if the allegation of misconduct has been substantiated by other means. It is particularly important that, wherever possible, reports about these cases contain copies of any supporting evidence, such as statements relating to the misconduct, notes of any interviews with the person and minutes of any disciplinary interviews. Employers should also inform the staff member that their case is being reported to the Department and advise them to retain any relevant paperwork which they may need if it is necessary to consider their case further.

Will information provided to the Department be disclosed to anyone else?

Yes. Any information that we receive will be disclosed to the teacher or worker whose case we are considering. If it is appropriate to obtain a medical report from a consultant forensic psychiatrist or from the person's treating physician, the information will also be disclosed to the Department's Medical Advisor and to the consultant or physician. Information may also be disclosed to the Department's expert panel, who advised the Secretary of State on issues around employment and barring.

In addition, if a teacher appeals to the Care Standards Tribunal against a decision by the Secretary of State to bar or restrict their employment or against a decision not to remove their name from List 99, any information provided about the case may be passed to the Tribunal.

Similarly, both medical evidence and advice provided by the Department's medical adviser may be provided to the Care Standards Tribunal, but withheld from the teacher or worker concerned. In these circumstances, the information may be made available to the person's representative.

What about teachers who are registered with the General Teaching Council for England or the General Teaching Council for Wales?

When we receive a report about a teacher

who is registered with the General Teaching Council for England or the General Teaching Council for Wales, we will determine whether the case involves issues relating to the safety and welfare of children and, if it does not, we will pass the papers to the relevant Council, which will then consider the case under its disciplinary functions.

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Will employers be informed of the outcome of a report?

If an employer (or employment business or agency) has informed the Department of a person's misconduct, we will also let them know the outcome of the Department's consideration of the case. When a person is working in relevant employment, we will consult their employer before any decision is taken to bar them or place a restriction on their employment.

How does the Department deal with these cases?

Guidance on the processes that we follow in dealing with cases of misconduct and health barring is contained in *Child Protection: Procedures for Barring or Restricting People Working with Children in Education* which is available from the Children's Safeguarding Operations Unit (List 99) and the Department's website at www.teachernet.gov.uk/docbank/index.cfm?id=4778

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a) Summary

Under the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the Conduct Regulations), employment agencies and employment businesses are not allowed to introduce or supply a work seeker to a hirer unless they have made checks to ensure that both work seeker and hirer are aware of any legal or professional body requirements, which either of them must satisfy to enable the work seeker to work for the hirer. So in the case of employment agencies and businesses supplying staff to schools or FE colleges, the agency should check that any supply staff have the qualifications required for the post the hirer is seeking to fill.

Schools must require agencies to provide a written confirmation (direct not via the person being hired) certifying that all the checks required have been satisfactorily completed. Where the CRB Disclosure contains information, a copy of the CRB Disclosure must be supplied to the head teacher, principal or appropriate designated HR person. This can be faxed but agencies should first confirm by phone that a fax is being sent; and should, for security, first fax a blank sheet of paper and confirm receipt by the designated individual, to ensure it has been sent to the correct fax number. Recipients should be aware of the CRB code of conduct when handling disclosures, as copies must be handled in the same way as originals; see www.crb.gov.uk. If a CRB Disclosure is pending, this fact must also be notified to the head teacher or principal, with details of when the disclosure was sought. Subsequent clearance should then be notified to the head teacher or principal with a copy of the certificate if it contains information; and where a disclosure raises concerns, an individual must be withdrawn pending further inquiries. School and FE colleges must have confirmation from supply agencies that the required checks have been undertaken.

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Appendix 11: Guidance for Employment Agencies supplying Staff to Schools and FE Colleges

b) Step by step guide

1) what agencies/employment businesses have to do before introducing a teacher or any other worker to a school or FE college:

- The Conduct Regulations require the agency to make all reasonable enquiries

to ensure that the interests of the work seeker or hirer (i.e. in this case the school or college) would not be harmed if the work seeker were to carry out the work;

- Further requirements are placed on agencies where the position involves working with vulnerable persons (e.g. school children, FE college students);
- These obligations require the agency to obtain, and offer to the hirer, copies of the work seeker's relevant qualifications or authorisations, and two independent references;
- Where the work seeker is to work with children, the agency is also required to take all reasonable steps to confirm that the work seeker is not unsuitable for the work;
- While the Conduct Regulations do not spell out what "all reasonable steps" means, the School Staffing (England) (Amendment)(No2) Regulations 2006 specify that a CRB Disclosure must be obtained, and a copy supplied for supply staff to the relevant school or college where the disclosure is not clear of offences or soft information. The requirement is placed upon supply agencies supplying FE colleges under the Further Education (Providers of Education) (England) Regulations 2006, and in FE colleges applies only to those staff providing education who regularly care for, train, supervise or have sole charge of children and young persons under 18.

2) How to get a CRB Disclosure, and role of umbrella bodies

See Appendix 9

3) Supplying teachers while a CRB Disclosure is awaited – agency's duty to notify school and FE college

Ideally, a CRB Disclosure should be obtained before an individual begins work, and details of this and other checks confirmed with the receiving school or college. Where the disclosure discloses information, a copy of the disclosure should be forwarded to the school or college via post or fax, before an individual

begins work. Where a disclosure remains outstanding at the time an individual begins work, this fact and the date the disclosure was requested must be notified to the school or college, and they must be notified as soon as the disclosure is received, and a copy forwarded where it discloses information.

The agency or employment business must notify the head teacher or principal that the relevant CRB Disclosure is awaited, and must have started the process of acquiring the CRB Disclosure. The agency must notify the head teacher or principal as soon as the CRB Disclosure is received.

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4) Co-operation between agencies where teachers are registered with more than one agency

Teachers who are on the books of more than one agency at the same time need not be asked to obtain a separate enhanced CRB Disclosure by each agency. In those circumstances the second or subsequent agency should request the teacher produce his or her copy of the CRB Disclosure obtained by the first agency, and should verify the validity of the document by checking with the first agency. If the disclosure includes any information then the second agency will need to seek the individual's consent and get the agency's copy of the disclosure so it can be transferred to any school or FE college to which they supply the individual. The second agency will, however, need to obtain a separate CRB Disclosure if the first agency advises that the police disclosed additional (brown envelope) information that was not included on the teacher's copy of the CRB Disclosure. This also applies to schools and FE colleges as additional information cannot be passed on without the permission of the Chief Police Officer who provided the additional information. Disclosures with additional information are extremely rare; and it would be unusual for employers/agencies to take on staff where relevant additional information is disclosed by the police.

5) Duty on agencies when results of CRB

Disclosure is obtained

If an agency receives information which gives it reasonable grounds to believe that the work seeker is unsuitable to work for the hirer, it must without delay inform the hirer and end the supply of that work seeker (i.e. inform the school or FE college and withdraw the teacher);

If however the agency receives information that the work seeker may be unsuitable, the agency must without delay inform the hirer of this information and start further enquiries to check the work seeker's suitability. It should inform the hirer of the further enquiries and of any further information received. If those further enquiries give reasonable ground for believing the work seeker is unsuitable, the agency must, without delay, inform the hirer (i.e. the school or FE college) and end the supply (i.e. withdraw the teacher).

6) Note on portability of CRB Disclosures and their shelf-life, and storage

Agencies should obtain an Enhanced CRB Disclosure when they first register or engage a teacher, and should obtain a fresh Enhanced CRB Disclosure every 3 years, or earlier if the teacher has a break in service of 3 months or more, or if there are grounds for concern about the person's suitability to work with children.

Information disclosed as part of a CRB Disclosure must be treated as confidential.

It is an offence for information in a Disclosure to be passed to anyone who

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does not need it in the course of their duties. The Disclosure must be kept in secure conditions and must be destroyed, by secure means, as soon as it is no longer needed.

While the CRB code specifies that a CRB Disclosure should not normally be kept more than 6 months after the decision is taken to appoint or employ an individual, the requirement in the Conduct Regulations that agencies and employment businesses must keep records relating to all applications received from workers for at least a year takes precedence over the code. In addition, where an individual remains with an

agency for more than 12 months, a disclosure can be kept for up to 3 years to facilitate portability arrangements. Before the disclosure is destroyed, records need to be kept detailing the date the disclosure was obtained, who obtained it (i.e. school, FE college, local authority, supply agency), the level of the disclosure, and the unique reference number. The head teacher or principal or local authority will also want to consider keeping a note of what other information was used to assess suitability.

7) Duty of school or FE college to include requirements for checking in contracts with agencies

Head teachers and Principals must ask supply agencies to verify that the check has been made. This verification should be in writing. Schools and FE colleges must obtain the disclosure from the agency where it discloses information.

In the case of agency staff provided to schools and FE colleges, agencies are required to carry out the checks below in the same way as for permanent staff, and schools and FE colleges must confirm with the agency that the appropriate checks have been carried out.

c) Further sources of information:

Guidance on Employment Agency Legislation is available on the DTI's website –

<http://www.dti.gov.uk/employment/employment-agencies/index.html>

Guidance on Safer Recruitment and Vetting in the Education Service is available on DFES's website –

www.DfES.gov.uk/consultations

Further information about the CRB and its service can be found on its website at: www.crb.gov.uk. Alternatively, the CRB can be contacted by post or telephone. The CRB's address is PO Box 110, Liverpool L69 3EF. The information line number is: 0870 90 90 811 and the Registration application line for organisations wishing to register to authorise checks is 0870 90 90822.

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Meaning of "regulated position".

(1) The regulated positions for the purposes of this Part are -

- (a) a position whose normal duties include work in an establishment mentioned in subsection (2),
- (b) a position whose normal duties include work on day care premises,
- (c) a position whose normal duties include caring for, training, supervising or being in sole charge of children,
- (d) a position whose normal duties involve unsupervised contact with children under arrangements made by a responsible person,
- (e) a position whose normal duties include caring for children under the age of 16 in the course of the children's employment,
- (f) a position a substantial part of whose normal duties includes supervising or training children under the age of 16 in the course of the children's employment,
- (g) a position mentioned in subsection (6),
- (h) a position whose normal duties include supervising or managing an individual in his work in a regulated position.

(2) The establishments referred to in subsection (1)(a) are -

- (a) an institution which is exclusively or mainly for the detention of children,
- (b) a hospital which is exclusively or mainly for the reception and treatment of children,
- (c) a care home, residential care home, nursing home or private hospital which is exclusively or mainly for children,
- (d) an educational institution,
- (e) a children's home or voluntary home,
- (f) a home provided under section 82(5) of the Children Act 1989.

(3) For the purposes of this section, work done on any premises is treated as not

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Appendix 12: Criminal Justice and Court Services Act 2000

The Criminal Justice and Court Services Act 2000 is published by The Stationery Office Limited, ISBN 0 10 544300X. It can also be found at www.hmso.gov/acts/acts2000.htm.

being done on day care premises to the extent that -

- (a) it is done in a part of the premises in which children are not looked after, or
- (b) it is done at times when children are not looked after there.

(4) The duties referred to in subsection (1)(c) and (d) do not include (respectively) -

- (a) caring for, training, supervising or being in sole charge of children in the course of the children's employment, or
- (b) duties involving contact with children in the course of the children's employment.

(5) The reference in subsection (1)(d) to unsupervised contact is to contact in the absence of any responsible person or carer; and in this subsection, "carer" means a person who holds a position such as is mentioned in subsection (1)(c).

(6) The positions mentioned in subsection (1)(g) are -

- (a) member of the governing body of an educational institution,
- (b) member of a relevant local government body,
- (c) director of social services of a local authority,
- (d) chief education officer of a local education authority,
- (e) charity trustee of a children's charity,
- (f) member of the Youth Justice Board for England and Wales,
- (g) Children's Commissioner for Wales or deputy Children's Commissioner for Wales,
- (h) member, or chief executive, of the Children and Family Court Advisory and Support Service.

(7) For the purposes of subsection (6), a person is a member of a relevant local government body if -

- (a) he is a member of, or of an executive of, a local authority and discharges any education functions, or social services functions, of a local authority,
- (b) he is a member of an executive of a local authority which discharges any such functions,
- (c) he is a member of -
 - (i) a committee of an executive of a local authority, or
 - (ii) an area committee, or any other

committee, of a local authority, which discharges any such functions.

(8) In its application to Northern Ireland, subsection (6) is to be read as mentioning also the following positions -

(a) member, or director of social services, of a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972,

(b) member, or executive director of social work, of a Health and Social Services trust established under Article 10 of the Health

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and Personal Social Services (Northern Ireland) Order 1991,

(c) member, or chief education officer, of an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986.

(9) Any reference in subsection (7) to a committee includes a reference to any subcommittee which discharges any functions of that committee.

(10) For the purposes of subsection (1)(h), the holder of a position –

(a) only supervises an individual if he supervises the day-to-day performance of the individual's duties, and

(b) only manages an individual if the individual is directly responsible to him for the performance of his duties or he has authority to dismiss the individual.

(11) For the purposes of this section, a charity is a children's charity if the individuals who are workers for the charity normally include individuals working in regulated positions.

(12) For the purposes of this section, an individual is a worker for a charity if he does work under arrangements made by the charity; but the arrangements referred to in this subsection do not include any arrangements made for purposes which are merely incidental to the purposes for which the charity is established.

(13) For the purposes of this section, the following are responsible persons in relation to a child -

(a) the child's parent or guardian and any adult with whom the child lives,

(b) the person in charge of any

establishment mentioned in subsection (2) in which the child is accommodated, is a patient or receives education, and any person acting on behalf of such a person, (c) a person registered under Part XA of the Children Act 1989 for providing day care on premises on which the child is cared for, and

(d) any person holding a position mentioned in subsection (6).

(14) In this section - "area committee" has the same meaning as in section 18 of the Local Government Act 2000, "detention" means detention by virtue of an order of a court or under an enactment, "education functions", in relation to a local authority, means any functions with respect to education which are conferred on the authority in its capacity as a local education authority, "education functions", in relation to a local authority, means any functions with respect to education which are conferred on the authority in its capacity as a local education authority, "executive", in relation to a local authority, has the same meaning as in Part II of the Local Government Act 2000, "social services functions", in relation to a local authority, has the same meaning as in the Local Authority Social Services Act 1970.

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(15) For the purpose of amending the definition of "regulated position", the Secretary of State may by order make any amendment of this section (apart from this subsection) which he thinks appropriate.

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Case Studies

These examples do not make up definitive guidance, but show how head teachers and principals could consider risk in deciding whether a CRB Disclosure is appropriate. Where a CRB Disclosure is required volunteers should be checked against List 99 before starting work and those awaiting a CRB Disclosure can then at the head teacher's or principal's discretion work with appropriate supervision until their CRB Disclosure comes through, see paragraphs 4.24, 4.25 and 4.27.

Case Study: Mrs Smith offers to

accompany a class on a 3 hour school trip to a Hindu temple. Several adults including a teacher and teaching assistant will be present at all times. Mrs Smith has lived in the area for several years and she, her husband and children are well known to the school; there has never been anything that suggests that Mrs Smith might present a risk to children.

Decision: the head teacher decides that Mrs Smith will not have unsupervised access to children and what the school knows of Mrs Smith is positive. Head teacher decides that no CRB Disclosure or List 99 check is necessary.

Case Study: The mother of a child in year 1, Miss Jones, offers to take small groups of children to a screened off area of the classroom to do basic cooking one afternoon a week for 8 weeks. Miss Jones and the children can only be seen from a far corner of the classroom. The sessions last for 20 minutes. The teachers know Miss Jones from parents' evenings and as a helper on the PTA cake stall once a month; there is no evidence that she is unsuitable to work with children.

Decision: The head teacher decides that Miss Jones will effectively be unsupervised; her normal duties will include 'caring for, training, supervising, or being in sole charge of children; and asks her to apply for an enhanced CRB Disclosure.

Case Study: Ms Callaghan has a child in reception and has offered to come in for 2 hours per week to read in class with a small group of children who do not speak

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Appendix 13: Volunteer Case Studies

English at home. She previously volunteered at her daughter's playgroup.

Decision: The head teacher decides that Ms Callaghan should be asked for an enhanced CRB Disclosure as her 'normal duties' involve work with children,

although she would not be alone with them at any time.

Case Study: Mr Sinclair is a recently retired grandfather of one of the children in the school. He offers to come in one afternoon a week to read in class with a boy who has learning difficulties. Mr Sinclair is not known to the school and has not worked with children before, although his grandson's mother thinks that Mr Sinclair would be an asset to the school.

Decision: The head teacher decides that although Mr Sinclair is not left unsupervised, the level and frequency of contact is high. Also, Mr Sinclair is not directly known to the school. The head teacher asks him to obtain an enhanced CRB Disclosure.

Case Study: Mr Patel offers to help on a weekend geography field trip where teachers, volunteers and children stay overnight in a youth hostel. Mr Patel has helped with school trips and reads once a fortnight in class with two children in Y4 who need extra help. He has not had a criminal background check, although in the past he had a List 99 check.

Decision: The head teacher decides that Mr Patel could have a high level of unsupervised access to children in the course of the overnight trip and his normal duties on the trip will include 'caring for, training, supervising, or being in sole charge of children'. She asks him to apply for an enhanced CRB check.

Case Study: Mrs Akbar arrived from Pakistan 4 months ago. Two of her children attend the school. She has offered to come into school once a week to help with sewing lessons.

Decision: The head teacher decides that Mrs Akbar will not have unsupervised access to children and her level of contact with the children is low. However, as she is regularly working with children, he decides to ask for an enhanced CRB Check.

Case Study: Mrs Hall has just moved into the area and three of her children have entered the school. She is a qualified piano teacher. At her old FE college she took small singing groups two afternoons a

week and has offered to do the same at her new college. No one in the college has first hand knowledge of Mrs Hall and her family.

Decision: The principal decides that the nature, level, and frequency of contact with children would normally indicate an enhanced CRB Disclosure. He telephones the principal of Mrs Hall's previous school who confirms that Mrs Hall had a CRB Disclosure 2 years ago and that nothing came up. Since then she has volunteered twice weekly in his college. He has no hesitation in recommending Mrs Hall to the new college; she achieved superb musical results and her approach to

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managing children was always effective and in line with college policy. Principal decides to seek a further CRB Disclosure, as it is evident that Mrs Hall will have substantial unsupervised contact with children.

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1. Introduction

1.1. Following the publication of the *Safeguarding Children in Education* guidance by the Department for Education and Skills, people involved in organising extended work placements have asked for further clarification which takes into account the diversity of work experience practice. The questions they have raised and the Department's responses are detailed in the sections that follow.

1.2. This supplementary guidance has been agreed by the Safeguarding Children Policy Team. It was written by the Enterprise and School Business Links team at DfES, which has policy responsibility for school work experience, and the Vocational Learning at Key Stage 4 team, which has responsibility for the Increased Flexibility programme, GCSEs in vocational subjects, and Young Apprenticeships. This guidance is relevant to all people involved in organising work experience for students during Key Stage 4, but it also applies to 16-to-18 year-olds who are in FE colleges (see section 175 of the Education Act 2002) including:

□□EBPs, EBLOs, Trident Trust, LEAs, Connexions;

□□ Schools, FE colleges, training providers;

□□ Young Apprenticeship partnerships.

The term 'placement organisers' is used throughout to refer to all people and organisations that place students in work placements, i.e. local authorities, schools, FE colleges, central organisers, training providers, Trident Trust, EBPs.

1.3. This guidance should be read alongside the Work Related Learning and the Law guidance published by the DfES in September 2004.

1.4. The Trident Trust has produced a flow chart to further clarify this guidance (attached).

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Appendix 14: Extended Work Experience and Child Protection – Supplementary DfES Guidance for Work Experience Organisers

2. To which students does Safeguarding Children and Safer Recruitment in Education apply?

2.1. Chapter 2 applies in particular to long-term extended work placements in Key Stage 4. However, the guidance is also relevant to other work experience programmes in Key Stage 4 and placement organisers will want to consider the welfare of the children and young persons they are placing. It also applies to placements that are a component of a course of study at a FE college and, to under-16 Young Apprenticeships. The Education Act 1996 enables students on work experience in Key Stage 4 to assume the temporary status of a 'young person', as this allows them to undertake work tasks which are prohibited for children. However, in child protection legislation, and generally in law as 18 is the age of majority, a child is defined as anyone

under 18. The *Safeguarding Children and Safer Recruitment in Education* guidance does not apply to training schemes where day release or its equivalent is part of the scheme or to employed status apprenticeships.

3. Does the child protection guidance only refer to long-term extended work placements?

3.1. Annex A of *Safeguarding Children and Safer Recruitment in Education* addresses specifically the issue of child protection on long-term extended work placements. In the main the guidance refers to long-term extended work placements, but there are special factors that all placement organisers need to consider (see below).

3.2. The overall message to placement organisers is that they should regard child protection in a similar way to health and safety. Currently, a great deal of attention is rightly paid to ensuring that placements are generally suitable and that risks have been reduced to the lowest level practicable. 'Safe learners' (a term used by the Learning and Skills Council see www.safelearner.com) also have some health and safety briefing in preparation for the placement and an induction by the employer. Placement organisers have a responsibility for assessing the general suitability of the placement, while employers have a responsibility to carry out a risk assessment.

3.3. Any potential risks to the child from the placement should be considered as part of this initial assessment of general suitability which looks at health, safety and **welfare**. Additional safeguards may be necessary when there are certain risk factors present. Some of these risk factors apply equally to short-term extended work experience or block placements including:

- Where the child may be vulnerable. N.B. A variety of factors can make a child vulnerable, including special needs, immaturity, abuse or neglect, substance misuse, etc. The school or FE college that the child attends should identify any child who may be vulnerable, and who may therefore require additional safeguards, to the placement organiser.

□□Where the nature of the business means that the child is likely to be or will be

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alone with an adult as part of the work placement, e.g. sole trader, journeyperson (i.e. self-employed tradesperson), self-employed person working from home (NB. this does not apply to short periods alone, for example, a solicitor taking a student to and from court in a properly insured car).

□□Where the work placement has a residential component.

4. Why distinguish between short-term and long-term extended work placements?

4.1. Short-term extended work experience placements have recently developed as part of the Increased Flexibility programme and GCSEs in vocational subjects. As an alternative to a block placement, students often go out for half a day or a day per week for a term. The amount of time spent on such placements is broadly equivalent to a block placement that is typically for five or ten working days, but it could be for 15 days. A day's placement once a week during the longest school or FE college term would be roughly equivalent to a three-week placement. Such short-term extended placements would not normally require the additional safeguards to be in place, although placement organisers should still take child protection into account when assessing the general suitability of the placements. However, placement organisers should consider, in consultation with the school or FE college, whether any additional safeguards might be necessary where any other factors described in paragraph 3.3 apply.

4.2. Long-term extended placements became common as part of programmes of extended work-related learning which accompanied the disapplication of the National Curriculum regulations. Many students are still on extended work experience, say one day a week, as part of alternative curriculum programmes which may last for the whole of Year 10 and/or Year 11. Students taking NVQs or other

vocational courses as part of Increased Flexibility programmes may also have long-term extended work experience. Most recently students taking part in the Young Apprenticeship programme typically will have up to 50 days of work experience during Key Stage 4.

4.3. The DfES thinks that because of the greater amount of time and the spread of time – over several months or one or two years – that children will spend in the company of adults, there is a greater risk than in short-term placements. Hence, additional safeguards are necessary to protect children.

5. What are the additional safeguards to protect children on long term extended work experience placements?

5.1. The measures that need to be in place are common-sense policies and procedures. In some circumstances they should include obtaining CRB Enhanced Disclosures on individuals working with a child as part of the placement (further 114 EVERY CHILD MATTERS advice about CRB Disclosures is given in the subsequent sections of this guidance). Additional safeguards are only *required* for long-term extended work placements as defined above. Nevertheless placement organisers should use their judgement over whether any of these measures (particularly the first and second measures below) would be valuable for other work placements.

5.2. First, the placement organisers need to have policies and procedures in place concerning what action will be taken, and by whom, should a child protection issue be raised before, during or after the placement. This should be written down along with essential and useful contacts, for example, the relevant education welfare department. Making sure these procedures are in place is also part of a general duty of care.

5.3. Second, the staff arranging work placements need some child protection training and/or briefing. This is because they must be able to advise employers, and brief supervisors and students.

5.4. Third, training providers or employers

(placement providers) should have their awareness raised about the need for child protection by being asked to endorse a child protection policy or statement of principles. These can be devised in conjunction with the education welfare department and provided by the placement organiser. There are examples in circulation that have been specifically devised for this purpose. This shows that the placement providers are committed to looking after the welfare of the child and fulfilling their duty of care.

5.5. Fourth, the person who has prime responsibility for overseeing the student during the placement, and/or any member of staff who has had a CRB Disclosure, should have some child protection briefing or training. This does not have to be an offsite training session but could be delivered one-to-one as a briefing by the placement organisers. Clearly, if they have a responsible role in looking after a child their awareness needs to be raised about child protection issues. Information contained in the publication, *What To Do If You're Worried A Child Is Being Abused*, sets out their responsibilities. They should also be given contact details (e.g. of the placement organiser or school or local authority or FE college) in the event of any concerns about a child for whom they are responsible.

6. When are Criminal Records Bureau Disclosures necessary?

6.1. Currently CRB Disclosures are not compulsory by law in this area. There is a statutory basis to the *Safeguarding Children and Safer Recruitment in Education* guidance. Under section 175 of the Education Act 2002 local authorities and governing bodies of maintained schools and FE colleges must have regard to guidance issued by the DfES in drawing up the arrangements they are required to have for safeguarding and promoting the welfare of children. Local authorities and schools' and FE colleges' arrangements for long-term extended work placements must include arrangements for CRB Disclosures, where those are thought to be appropriate

in line with the *Safeguarding Children and Safer Recruitment in Education* and this, or any other supplementary guidance, issued by the DfES.

6.2. The assessment of the general suitability of the placement will now need to include consideration of whether any additional safeguards are necessary and, if so, whether there is someone who is eligible for a CRB Disclosure. Placement organisers are required to make a judgement in each case as to whether someone meets the criteria for a CRB Disclosure. Eligibility for CRB Disclosures is governed by the law and only those people who meet defined criteria can apply for a disclosure. People will be eligible for a CRB Disclosure if *‘they are in a position the normal duties of which include regularly caring for, training, supervising, or being in sole charge of a child.’* Normal duties will generally mean that the function is written down in a job description, however, this may not always be the case. The eligibility criteria for CRB Disclosures refer to a “position” which can be entirely separate from someone’s job and can be a voluntary activity such as a workplace mentor (see 7.4 below).

6.3. This does not mean that every person coming into contact with the child during the placement must have CRB Disclosure. There may be someone in most long-term extended work placements who has a designated responsibility for the child and who has contact with them on the days when they are at the placement and who meets the criterion for a disclosure. Equally, there may be some circumstances, because of the nature of the workplace or the organisation of the placement, where there is no one eligible for a CRB Disclosure. This might be the case, for example, where there is a member of staff who is responsible for liaison with the placement organisers and for general oversight of students, but who does not have regular contact with them. In other circumstances the student may move around different departments or workstations so that s/he interacts with a number of people during the placement

who each take some responsibility for supervising him or her. In this case there may be no single individual who meets the criterion, and a CRB Disclosure on all of the staff the child might come into contact with would not be appropriate.

6.4. The local authority, school or FE college should decide whether or not a CRB Disclosure is necessary in the circumstances pertaining in each longterm extended placement. Where this function is delegated to a placement organiser any decision on whether or not a CRB Disclosure is appropriate should be discussed with the local authority or school or FE college with the prime duty of care for the student. The rationale behind any decision not to have a CRB Disclosure should be recorded.

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7. Should workplace mentors have CRB Disclosures?

7.1. It is becoming popular to provide students on extended placements with a buddy, coach or mentor to provide additional support. The question arises as to whether such individuals need to have a CRB Disclosure. Again this is a situation where the judgement of the placement organiser needs to be applied when the placement is organised and when its general suitability is being assessed.

7.2. A workplace 'buddy' scheme might not require the 'buddies' (i.e. often young workers aged 18-24) to have a CRB Disclosure, if this would be a short term activity, not a regular part of the individual's normal duties, that would only last for a short time until the student was settled in.

7.3. The role of the workplace coach can focus on developing specific vocational skills, i.e. there may be a training component. If this is a formal role that is part of the individual's normal duties and the role lasts throughout the duration of the long-term extended placement it is likely that a CRB Disclosure will be appropriate.

7.4. The role of workplace mentor is also likely to be eligible for a CRB Disclosure

even though it may well be a voluntary activity. The eligibility criteria for CRB Disclosures refer to a “position” which can be entirely separate from someone’s job and can be a voluntary activity such as the role of a mentor that a person takes on in addition to duties that would be included in the job description. So the role of workplace mentor would be eligible for a CRB Disclosure, although the need for that might be reduced by the safeguards described below. In the same way business mentors (people from the world of work) acting as mentors to students in schools and FE colleges have routinely had CRB Disclosures. However, there are safeguards, short of CRB Disclosures, that could be introduced. For instance, as with all mentoring programmes, the purpose and boundaries of the relationship need to be clarified to the mentee during their preparation and to the mentor in their briefing or training session. In good practice, all meetings should take place at the workplace and should not be in private; there should not be contact outside of the workplace setting, and a more senior member of staff should monitor the mentoring programme.

7.5. In some Young Apprenticeship partnerships there are plans to designate Apprentices aged 18-25 as ‘supervisors’ to the Young Apprentices. Whether or not the Apprentices acting as supervisors would need to have a CRB Disclosure would depend on the precise nature of their role. It is possible, however, that it is a more informal relationship designed to give the older Apprentices a sense of responsibility for their younger peers and to improve their communication skills etc. In these circumstances there should be a more senior employee who monitors these supervisory relationships and to whom the Young Apprentice can turn in the event of any difficulties.

8. How should the CRB Disclosure process be managed?

8.1. As stated above staff to have a CRB Disclosure must be eligible, i.e. their *‘normal duties will include regularly caring*

for, training, supervising or being in sole charge of a child'. In order for this to be the case they must either have been appointed to such a position or have had an internal promotion or volunteered to take on this additional responsibility. It follows that people volunteering or applying for a position where their 'normal duties' mean they may become eligible for CRB Disclosures should be made aware that a CRB Disclosure is likely.

8.2. The responsibility for the CRB Disclosure should lie with the local authority, school or institution who will ask the person to complete the CRB form which will be submitted for a check at the enhanced level (as they are classed as volunteers the disclosures are free of charge). The results of the disclosure will be sent to the individual with a copy to the local authority or school or FE college. A criminal record per se will not necessarily debar someone from taking on a role in relation to children. The local authority or school or FE college will consider any information revealed by the disclosure and judge a person's suitability in the same way as for any other prospective volunteer or member of staff seeking work with children. NB. It is not appropriate for the placement organiser to arrange disclosures if that is not the local authority, school, or FE college responsible for the child. It is the local authority, school or FE college that is responsible for the child that must access any information revealed by a disclosure and make the decision about the person's suitability.]

8.3. A CRB Disclosure which resulted in the person being debarred from a role in working with children might mean that the placement organiser would not choose to use that placement (if it was part of the initial process of setting up placements – not all placements might be used perhaps because of not enough young people). In this way the employer may be unaware of the results of the disclosure. However, it may be that having committed to a scheme an employer later 'identifies' a member of staff to supervise or train the student and they become eligible. Under

these circumstances where a CRB Disclosure will be required it would be preferable for an employer to ask for volunteers from among experienced, trusted staff rather than allocating the responsibility without giving staff the opportunity to decline.

8.4. The Criminal Records Bureau have a commitment to turn round 90% of Standard Disclosure within 10 days and 90% of Enhanced Disclosure checks within 28 days.

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**Supplementary DfES Guidance November 2004
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