Department for Education

After-school clubs, community activities, and tuition

Safeguarding guidance for providers

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Overview

This is non-statutory guidance for organisations or individuals who provide community activities, tuition or after-school clubs for children.[1] These are also known as out-of-school settings (OOSS).

This guidance will help providers run safe settings to ensure the welfare of the children attending them. It covers best practices on:

- safeguarding and child protection
- the suitability of staff and volunteers
- health and safety
- governance

Safeguarding, and promoting the welfare of children, is everyone's responsibility and is defined for the purposes of this guidance as:

- protecting children from maltreatment
- preventing impairment of children's mental and physical health or development
- ensuring that children grow up in circumstances consistent with the provision of safe and effective care
- taking action if you identify or have concerns that children are suffering from, or are at risk of harm

This guidance has been created with reference to policies and guidelines in England, but its principles may help providers elsewhere in the UK. It covers best practices and makes clear legal requirements.

We expect all providers to review, and comply with, what the law says you must do: see the legal requirements subheading at the end of each section. Depending on the provision you offer, certain pieces of legislation may or may not apply to your setting. You are responsible for deciding and understanding which legislation applies or seeking legal advice on this.

[1] 'Children' refers to individuals who have not yet reached their 18th birthday.

Types of extra-curricular training, tuition, and community clubs and activities

OOSS are organisations (both commercial and charitable) or individuals that provide tuition, training, instruction or activities to children in England without their parents' or carers' supervision, but are not:

- schools[2]
- colleges[3]
- registered education settings providing alternative provision[4]
- 16 to19 academies
- providers caring for children that are registered with Ofsted or a childminder agency[5]

As a provider of extra-curricular training, tuition, or community clubs and activities, you or your organisation may care for children outside normal school hours or part-time during school hours (for example, to help meet the needs of those in home education).[6] Your after-school club or activity can occur in many kinds of venues, for example:

- a person's home
- community and youth centres
- sports clubs
- places of worship.

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[2] 'School' means all schools whether maintained, non-maintained, or independent, including academies and free schools, alternative provision academies, and pupil referral units. It includes maintained nursery schools.

[3] 'College' means further education colleges and sixth-form colleges as established under the Further and Higher Education Act 1992 and institutions designated as being within the further education sector. College also means providers of post-16 Education as set out in the Apprenticeships, Skills, Children and Learning Act 2009 (as amended): 16-19 Academies, Special Post-16 institutions and Independent Training Providers.

[4] Education settings providing alternative provision (AP) are not considered to be OOSS as this guidance is tailored towards settings that provide education which is supplementary to a child's main education.

[5] Most providers caring for children under 8-years-old must register with Ofsted (on The Early Years Register or The Childcare Register) or a childminder agency, unless the law states otherwise. Exemptions are set out in the Childcare (Exemptions from Registration) Order (SI 2008/ No 979) and are summarised in the registering with Ofsted guidance for childminders and childcare providers. Providers who are exempt from compulsory registration may still apply to register on the voluntary part of the Childcare Register if they meet its requirements.

[6] This applies to tutors who either work in the student's or the tutor's home, or where the tutor and student meet at a public or private premises.

If you are a provider offering youth work services, you should not deliver these services from private dwellings. Instead, you should refer to the National Youth Agency's sector specific guidance in the useful resources section for further advice.

You may or may not charge fees for your provision. Some clubs may operate on a commercial basis.

Typical settings include:

- tuition companies, individual tutors or learning centres (used to support mainstream or home education), for example:
    - in term time
    - holiday courses in key stage 1 to 4 curriculum
    - English and mathematics skills
    - exam preparation (for example, SATs, GCSE, A-level, and 11-plus or other school-entry exams)
- extracurricular clubs or settings, for example:
    - dance classes
    - gymnastic training
    - sports tuition
    - instrumental music tuition
    - martial arts training
    - drama classes
- uniformed youth organisations, for example:
    - Scouts
    - Guides
- open-access youth providers, for example, centre-based and detached youth work
- supplementary schools (sometimes called complementary schools), for example, those which operate after school hours or at the weekend
- private language schools, including those for children coming from abroad
- religious settings offering education in their own faith, culture, or religious texts or preparation for rites, of passage, for example:
    - Jewish yeshivas and chedarim
    - Muslim madrassahs
    - Hindu settings
    - Sikh settings
    - Christian Sunday schools

You should not be operating full-time (preventing a child attending a lawfully operating school). If you are, you may meet the statutory definition[7] of an independent school.

It is a criminal offence to conduct an independent school that is not registered. If convicted, a person could be subject to an unlimited fine and/or imprisonment up to six months.[8]Childcare Registration

Most settings offering provision for children 8 years or younger must join Part A of the General Childcare Register (unless they are exempt from registration), following the relevant register requirements. This guidance explains when you cannot register, and when you do not have to. If you are registered as an early years provider looking after children up to age 5, you must follow the Early Years Foundation Stage framework. If you are not required to register with Ofsted, you may still be able to register on Ofsted's voluntary childcare register, and many extra-curricular clubs, tutors, and activity providers choose to do so. This is because registering with Ofsted or a childminder agency also has the added benefit of unlocking support with childcare costs for thousands of parents.

Other sector guidance and accreditation schemes

Some sector-specific guidance documents are available, and many accreditation schemes and quality marks also exist for specific types of setting. If your setting has already signed up to an accreditation scheme, check whether, at a minimum, it covers the same basic requirements listed in this guidance. Some examples of these can be found in the Useful Resources section under Safeguarding and Child Protection.

Checklist of safeguarding arrangements

As a provider, you and your staff and volunteers have a duty of care toward the children who attend. This means that by law you must take reasonable steps to ensure the safety of the children and to protect them from harm.

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[7]An 'independent school' is defined as a school that is not maintained by a local authority or is not a non-maintained special school, and at which full-time education is provided (a) for five or more pupils of compulsory school age or (b) for at least one pupil of that age who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989) or has an education, health and care plan.

[8] If you are providing full-time education to a child, and think you may need to register as an independent school you should visit this webpage for guidance, and seek independent advice as necessary

The steps you take will differ depending on your provision's specific characteristics. For example:

- size
- the type of activity or tuition you offer
- physical location
- hours of operation

The list below details the arrangements you should have in place regardless of the type or size of provision. It provides a starting point that can be used by anyone to reduce the risk of harm to children in your setting.

Ensure that all staff[8] and volunteers understand and comply with the safeguarding arrangements you put in place and review your policies, procedures and training on an ongoing basis.

Safeguarding and child protection

You should:

- have an effective **safeguarding and child protection policy** in place
- have a **staff behaviour policy** (sometimes called a code of conduct)
- be aware of and have **training** on the specific safeguarding issues (including online) that can put children at risk of harm
- have clear **procedures on what to do if there are concerns** about a staff member, volunteer or another adult who may pose a risk of harm to children
- appoint a **designated safeguarding lead** (DSL)[12], who has undertaken safeguarding and child protection training (including online)
- provide parents or carers with a **named individual** (such as the DSL or another named member of staff) so they can raise safeguarding concerns
- if you're a lone provider, give parents or carers the **contact details of your local authority's children's services** or the NSPCC helpline number
- know the **local referral route** into children's social care
- **report any allegations of harm** to a child to both your local authority designated officer (LADO)[13] and the police as soon as reasonably practicable

[8] for the purpose of this code, "staff" should be interpreted very widely to mean a paid employee or unpaid worker or volunteer engaged by an out-of-school setting provider

[12] Sometimes referred to as the Safeguarding Lead or Welfare Officer

[13] Referred to as the LADO or Designated Officer

- know if the **legal duty to refer** to the Disclosure and Barring Service applies to you and ensure you make referrals when appropriate

Suitability of staff and volunteers

You should:

- make sure staff and volunteers have had **relevant pre-employment checks**, for example:
    - DBS check
    - verification of identity
    - references
    - right to work

- have regular **performance reviews** in place to check the suitability and training requirements of staff and volunteers after their appointment

Health and safety

You must:

- consider the suitability and safety of the setting for employees, children and young persons, taking steps to reduce any risks identified
- have a fire safety and evacuation plan
- have paediatric first aid training where children aged 5 and under are attending the provision (unless you're exempt from registration with Ofsted)

You should also:

- have first aid training and a first aid kit to hand as well as awareness of what to do in an emergency where children aged over 5 are attending
- have more than one emergency contact number for each child
- make sure you know of any medical concerns or allergies

Governance

You should have:

- a clear **complaints procedure**
- an effective **whistleblowing policy**
- a clear **staff behaviour policy** (code of conduct)
- a clear line of **accountability** for safeguarding which runs throughout your organisation, including at the most senior level

- a **clear record of the safeguarding training** provided to staff and the schedule of refresher training

Section 1: Safeguarding and child protection

Most of this section applies to providers of all sizes, including lone providers, and staff and volunteers.

Providers with staff members should ensure they read the whole section, including the information on safeguarding procedures and staff and volunteer responsibilities.

All providers should:

- have a written safeguarding and child protection policy, with written procedures in place
- be aware of the specific safeguarding issues that can put children at risk of harm and undertake appropriate training
- have appointed a suitably trained designated safeguarding lead (DSL)
- be aware of the referral route into children's social care

Providers with staff and the DSL should also:

- make staff and volunteers aware of what to do if they have concerns about a child
- make staff and volunteers aware of what they should do if they have concerns about safeguarding practices within the setting
- ensure that all staff and volunteers know the referral route into children's social care

Review your policies, practices and training regularly to ensure the children in your setting are safe.

Safeguarding and child protection policy

You should have an up-to-date safeguarding and child protection policy in place. This should explain how you'll protect children in your care. Tailor your policy to your own organisation and review it annually, as well as after any incident occurring.

At a minimum, it should include:

- a short policy statement, setting out the priority you give to keeping children and young people safe and how you'll achieve this
- a commitment that under no circumstances should any staff member or volunteer inflict physical or psychological harm on a child

- a list of procedures that enable you to keep the children in your care safe - if you're self-employed and do not have any staff members you do not need to write down your procedures step-by-step. However, you should know what steps you would take if faced with a specific safeguarding issue
- details of your DSL and how to contact them
- contact details for any relevant governing body or association (if applicable)
- contact details for local safeguarding services such as:
    - your local authority children's social care team
    - your local authority designated officer – at your local council
    - the police

Safeguarding procedures

If you have one or more employees or volunteers in your setting, it is important to write down your procedures. This will make sure all staff members understand their responsibilities and know what to do in the event of a safeguarding concern.

Typically, these should include a procedure:

- covering what to do if you have a concern that a child has been abused or may be at risk of abuse or exploitation (including online)
- to use in the event of allegations or concerns of child-on-child abuse in your organisation
- to deal with allegations or concerns that an adult working with children and young people in your organisation may present a risk of abuse
- to deal with adults trespassing for the purposes of abuse, for example, members of the public
- for complaints that explains how children, young people, and families can raise a safeguarding concern

Consider what other information you need them to be aware of. This could include:

- a code of conduct for staff, contractors and volunteers
- information about the different types of abuse, signs, and indicators
- how to respond directly to a child who discloses abuse

You should distribute written copies of your procedures to all staff and volunteers in your setting and ensure that they understand them. The NSPCC provides guidance on how to write user-friendly procedures.

Designated safeguarding lead

You should designate an adult (which could be yourself) to have lead responsibility for safeguarding children while they're in your care. We call this person the designated safeguarding lead (DSL). When appointing the DSL, you should consider the needs and characteristics of the children attending your setting.

DSLs should be suitably trained and have a good understanding of:

- specific safeguarding issues including:
  - bullying
  - physical abuse
  - neglect
  - emotional abuse
  - child sexual abuse
  - child-on-child harmful sexual behaviour
  - online safety
  - substance abuse
  - extremism and radicalisation
- child protection
- what abuse and neglect look like
- referral processes into the local authority children's social care team
- what to expect when they make a referral to children's social care

Managing safeguarding concerns

Detailed information on a DSL's duties and relevant training is in Keeping children safe in education (KCSIE), under Part two: The management of safeguarding. Although KCSIE applies to schools and colleges, it may also be useful for out-of-school settings as 'best practice'.

Multi-Agency Safeguarding Hub (MASH) teams are the single point of contact for all professionals to report safeguarding concerns to, within their local authority. Contact details for your local authority's multi-agency safeguarding hub, safeguarding lead or Prevent officer are often on their website under 'child safeguarding' or 'child protection services'. You can find your local council here - Find your local council. It is also good practice for DSLs to have the contact details for your local authority's children's social care team on hand in case you need guidance.

If you're concerned about a child, you can discuss the matter with your local authority children's social care team before deciding whether to make a referral to them. In some cases, they can provide early help services to children and their families.

The DSL should be aware of the local criteria for action and the local protocol for assessment, which can normally be found on your local authority website. These explain when to make referrals to children's social care and what to expect afterwards.

The DSL should record:

- any concerns about abuse and neglect
- what they have done about them
- the reason for their decisions

You should also have processes in place to manage any safeguarding concerns or allegations about your staff members. This includes volunteers and contractors.

If there is an allegation against a member of staff or volunteer, the DSL should contact their local authority designated officer. Your local authority's designated officer coordinates all allegations and concerns made against a person who works with children. They will advise you on what action you should take and if you need to refer the allegation to children's social care. The DSL should also inform the police if a crime may have been committed.

Specific safeguarding issues

Everyone that works with children should be aware of safeguarding issues that can put children at risk both online and offline. Training will differ according to the type of setting, but all staff and volunteers should be appropriately trained in safeguarding and child protection (including online).

Abuse and neglect

Make sure your staff and volunteers are aware of the indicators of abuse and neglect. This will help them to identify children who may need help or protection and know how to deal with the matter.

Abuse can take many forms, including physical, emotional or sexual. It can also take place in a variety of settings (both online and offline), for example, in the family environment or the local community. It includes child sexual exploitation and child criminal exploitation. For the first time, children and young people are deemed to be victims of domestic abuse under the Domestic Abuse Act 2021, where they see, hear or experience the effects of the abuse.

More information is available in:

- keeping children safe in education

- the advice for practitioners on what to do if you're worried a child is being abused
- Domestic abuse: Statutory guidance

You should act on any concerns about a child immediately. This will typically involve speaking to your DSL, who will record the concern and consider making a referral to the local authority children's social care team.

If a child is suffering (or is likely to suffer) immediate harm, it is important to make a referral to children's social care and contact the police and your local authority designated officer (LADO) at once. If you're the DSL, talk to your local authority children's social care team. Referrals should follow your local authority's referral process.

Knowing what to look for is vital to the early identification of abuse and neglect. If staff and volunteers are unsure, they should always speak to the DSL.

Example scenario: noticing abuse and neglect

Two volunteers at a local art group for children notice a father shouting at his 8-year-old daughter when he comes to collect her. He is shouting in another language and they're not sure what is being said.

The volunteers have heard other parents worrying about the child saying the father is often nasty. They're concerned this may be emotional abuse, but they don't want to report it in case they have misunderstood due to the language barrier. They wonder if they should wait and see if the girl says anything to them about her father's behaviour.

Our Advice

You should never wait until a child or young person tells you directly that they're experiencing abuse before acting. You should also not let concerns about cultural sensitivity stand in the way of safeguarding and protecting children and young people.

The two volunteers should report their concerns immediately to their DSL, who will then consider appropriate next steps. This may include making a referral to the local authority children's social care team.

If they are not satisfied with the course of action taken by the DSL they should consider making their own referral into local authority children's social care or the LADO.

Child-on-child abuse

Staff and volunteers should be aware that child-on-child (sometimes referred as peer on peer) abuse is a safeguarding issue. Such abuse can include:

- abuse in intimate personal relationships between children[14]
- bullying (including cyberbullying)
- physical abuse such as:
    - hitting
    - kicking
    - shaking
    - biting
    - hair pulling
    - otherwise causing physical harm
- harmful sexual behaviour, which can include:
    - inappropriate sexual language
    - the sharing of nude or semi-nude images or videos[15]
    - accessing age-inappropriate sexual material online
    - sexual activity without consent
    - sexual violence, such as rape or sexual assault upskirting[16]
    - initiation or hazing type violence and rituals

[14] This is true of all forms of abuse, including **physical, emotional, and sexual abuse.**

[15] Additional guidance can be accessed here: Sharing nudes and semi-nudes: advice for education settings working with children and young people - GOV.UK (www.gov.uk)

[16] Upskirting typically refers to the practice of taking a picture under a person's clothing without them knowing, with the intention of viewing their genitals or buttocks. In England and Wales upskirting is a criminal offence under the Voyeurism Act

Example scenario: handling child-on-child abuse

A self-employed coach of a community football club notices that a 15-year-old is unhappy and asks what has happened. The boy tells his coach that he sent an explicit photo of himself to his 16-year-old boyfriend. He says he didn't feel pressured into sending the photo but then his boyfriend shared it with their friends, which he didn't consent to. Friends are bullying him about it. Other children who attend the football club have seen the image.

Our Advice

Even when incidents happen outside your organisation, you're responsible for taking action to protect the children and young people involved. If you're concerned for a child or young person in your group, report it to your DSL. In this example, the coach is the DSL as he is a lone provider.

As the DSL, the coach should get advice from the local authority's children social care. The coach should inform the parents and involved in the process unless doing so would put the child at risk of harm. The coach should not promise confidentiality at the initial stage but should only share the report with those necessary for its progression.

Mental health and wellbeing

Mental health problems and suicidal thoughts can affect anyone, of any age and of any background. Mental health problems are common among children and young people, but they can be difficult to identify.

It is important that everyone working with children know the signs and symptoms of mental health problems. These will differ from child to child, but some common signs include:

- becoming withdrawn from friends and family
- persistent low mood and unhappiness
- tearfulness and irritability
- sudden outbursts of anger
- loss of interest in activities they once enjoyed
- problems eating or sleeping

Children who are suffering from mental health problems may also be more vulnerable to harm. For example, exploitation, grooming and radicalisation. Mental health problems may also be indicators of:

- abuse and neglect
- child-on-child abuse
- exploitation
- grooming
- radicalisation

If you're worried that a child who attends your setting may be suffering from a mental health problem, the NSPCC has guidance on children's mental health and on preventing self-harm. The UK Health Security Agency also provides low-cost psychological first aid training to enable staff members to support children and young people's mental health during emergencies and crisis situations.

If there is a suggestion that a child has been harmed or is at risk of harm, raise this with your DSL.

Children with special educational needs and disabilities (SEND)

You are required by the Equality Act 2010 to ensure you do not discriminate on the grounds of disability (including in relation to admission) and that you make reasonable adjustments to ensure that a child is not placed at a disadvantage compared to non-disabled children in the ways you organise and deliver your provision. Providers may wish to bolster their confidence and knowledge in this area by outsourcing adequate inclusion training for their staff, if children or young people with SEND attend their settings. The Whole School SEND website hosts the Universal SEND Services programme, which offers organisations free online Continuing Professional Development (CPD) units. Although some of these units have a class-based focus, units 1-3 (creating a socially, physically and emotionally safe environment for learners with SEND) would be useful to those working with SEND children in OOSS. These units are designed to support providers in delivering an inclusive experience for children and young people with SEND.

Children with SEND can face additional safeguarding difficulties. Make sure, your child protection policy reflects the fact that these additional risks and barriers can exist when recognising abuse and neglect among such children.

These can include:

- assumptions that signs of possible abuse such as behaviour, mood and injury relate to the child's disability, without further exploration
- being more prone to peer group isolation than other children
- the potential for these children to be disproportionately affected by behaviours such as bullying, without showing any outward signs

- communication barriers and difficulties in managing or reporting these challenges
- difficulty in being unable to understand the difference between fact and fiction in online content
- repeating content or behaviours without understanding the consequences of doing so

Your local authority may be able to provide you with training or signpost available funding streams to assist you with widening access to your provision for children with SEND.

Staff and volunteer responsibilities

This section only applies to providers with staff or volunteers.

Safeguarding and child protection is everyone's responsibility. The statutory guidance on Working Together to Safeguard Children applies to all organisations that have functions relating to children. Anyone working with children should make their approach child-centred. For example, give priority to the interests and needs of the child.

Staff and volunteers should be aware that they should raise all safeguarding concerns with their DSL immediately.

All staff should consider the context in which safeguarding incidents occur. For example, threats to children's welfare could arise:

- in school or other educational establishments
- from external visitors to schools or clubs
- in peer groups
- from the wider or online community

When concerned about a child's welfare, staff and volunteers should always act in the child's best interests. They should know and understand the setting's safeguarding processes and the appropriate escalation route.

Training will differ according to the type of setting, but all staff and volunteers should be appropriately trained in safeguarding and child protection. The NSPCC offers an introductory online training course on child protection.

Local authority children's social care and multi-agency safeguarding arrangements

Local authorities, working with partner organisations and agencies, have specific duties to safeguard and promote the welfare of all children in their area.

The local authority, chief officer of police and chief executive of the clinical commissioning group have a shared and equal duty to make arrangements to work together to safeguard and promote the welfare of all children in their area. This involves working with named 'relevant agencies', which could include out-of-school settings– see chapter 3 of Working Together to Safeguard Children for more detail.

DSLs should familiarise themselves with the local arrangements. They should make staff and volunteers aware of the local referral route into children's social care. This may be via a multi-agency safeguarding hub. Information on how to make a referral in your area is available.

What to do if a child makes a disclosure of abuse or harm

If a child in your setting discloses to you that they have been abused or that they feel at risk of harm, you should follow your safeguarding policies and procedures immediately. If a child is at risk of immediate harm, you should call the police on 999.

When the child makes the disclosure, you should not confront the alleged abuser, but should:

- listen carefully to the child so they know that you're taking the disclosure seriously
- take notes on what the child says as soon as possible after the disclosure
- reassure them they have done the right thing in telling you
- explain what you'll do next (if age appropriate)
- report the abuse without delay to the LADO, and as appropriate the local authority children's social care and the police

It is important not to investigate the disclosure yourself as this may jeopardise a police or social care investigation and possibly the prosecution of the offender. You should take advice from children's social care and the police and cooperate with their investigations.

You should record any safeguarding incidents and store the information securely, ideally in a private office. Only the DSL, or other relevant senior colleagues, should have access to the records. Only keep records for as long as necessary. Do not give

any information to other parties without the child's consent (or parental consent if the child is under 13) except for the legitimate sharing of safeguarding information.

Working alone with children

If you work in an organisation where there are several other employees or volunteers, it is generally best practice not to work alone with a child. However, there may be circumstances where this is unavoidable or you may be a lone provider, in which case you should follow this guidance.

Consider if it's appropriate for a parent, carer or another trusted adult to be present during the session. You could also invite parents and carers to wait in a separate room during the session. If the child and their parents or carers are happy for you to work alone, you should get written consent. If you typically work alone with children (for example, if you're a private tutor), then it is good practice to arrange a meeting with the child and their parent or carer so you can agree on what will happen during sessions. You should also give them a copy of your child protection policy.

When working alone with a child, without their parent or carer in the room, it is important to get appropriate parental consent, particularly if the child is under 16. If they're 16- or 17-years-old, carefully consider whether you need parental consent. For example, whether the child is happy for you to work alone. It is best practice to have at least 2 adults present. This adult should preferably be somebody with safeguarding responsibility, for example the DSL.

If you're working unsupervised with a child, you're likely to be undertaking regulated activity[17].This means you may be eligible for an enhanced with barred list DBS check. Regulated activity includes unsupervised activities such as providing advice and guidance.

If you're working alone unexpectedly with a child or young person, make sure you're somewhere where other people can see you. You should also tell another adult such as your supervisor or designated safeguarding lead, that you're alone with the child.

[17] Regulated activity is defined at Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (as amended by Part 5 of the Protection of Freedoms Act 2012)

Legal requirements and statutory guidance

When considering safeguarding and child protection in your setting, you should have regard to the following legislation and statutory guidance:

The Equality Act 2010 - provides basic framework of protection against direct and indirect discrimination, harassment and victimisation in services and public functions on the basis of protected characteristics an individual has or is perceived to have.

Working Together to Safeguard Children – outlines that every voluntary, community and social enterprise (VCSE), faith-based organisation and private sector organisation or agency should have policies in place to safeguard and protect children from harm. They should be aware of how to work together with the safeguarding partners in a local area to safeguard and promote the welfare of local children, including identifying and responding to their needs.

Sexual Offences Act 2003 (s 22A) -The 'position of trust' provisions have been extended to capture those that lead activities in sporting and religious settings in addition to the roles and settings that were specified previously. This means that it is an offence for a person over the age of 18 to enter into a sexual relationship, or engage in certain other sexual activities, with a young person (aged under 18) where they knowingly coach, teach, train, supervise or instruct them on a regular basis in a sport or a religion setting. If a person aged 18 or over is classified as in a position of trust and commits the offence of intentionally causing or inciting a young person to engage in a sexual activity, they could be imprisoned for a term of up to 5 years. Further information can be found here: Positions of trust: Police, Crime, Sentencing and Courts Act 2022 factsheet - GOV.UK (www.gov.uk).

Section 2: Suitability of staff and volunteers

Most of this section only applies to providers with staff or volunteers.

Volunteers, employees and lone providers should read the sections on DBS checks when self-employed or volunteering, staff behaviour policy, and training.

You should:

- take appropriate steps during the recruitment of new staff and volunteers to ensure they're suitable
- determine whether you're a regulated activity provider and if so, identify your responsibilities
- undertake the appropriate recruitment and pre-appointment checks on staff and volunteers (for example, identity the right level of DBS check)
- know what to do where concerns are raised about staff or volunteers who may pose a risk of harm to children
- regularly review the performance and suitability of staff and volunteers after their appointment

Volunteers, paid employees, and lone providers should apply for the level of DBS check they're eligible for.

Recruitment

Regardless of the type and size of your setting, you should have robust procedures in place to prevent unsuitable people from working or volunteering in your setting.

It is important that you do not rely on one single check, for example, a Disclosure Barring Service[18] check (DBS) to determine whether staff or volunteers are suitable.

Check whether your local authority children's social care team or local authority designated officer offer safer-recruitment training.

[18] Previously known as Criminal Records Bureau (CRB) checks

Pre-employment checks

Before employing a person, employment law requires you to prove and verify their identity and that they have the right to work in the UK.

To assess a person's suitability to work with children, before they start you should:

- check that applicants have the right skills
- ask for details of previous experience
- ask for references and make sure you check them and follow up any concerns with the referee
- run the appropriate level of criminal records checks such as DBS checks and, where relevant for the role, this should include a 'children's barred list' check

If relevant to the role, consider prohibition checks such as those that prohibit someone from:

- being a teacher at a school (teacher prohibition)
- running an independent school (section 128 checks)[19]

References

References help you to get objective information to support appointment decisions. You should scrutinise references and resolve any concerns before confirming the appointment. Always ask for written information about employment history, qualifications, or personal references, and check it is consistent and complete.

Check the reference from the candidate's current employer. If a potential employee does not have a career history, ask for personal references from school or university staff. If a candidate is not currently working, get verification of their most recent period of employment and reasons for leaving.

Always request references directly from the referee and preferably from a senior person with appropriate authority.

Do not rely on:

- open references, for example 'to whom it may concern' testimonials
- information provided by the candidate as part of the application process without verifying it

[19]Any member of the public may inspect the full list of teachers who are banned, which is held by the Teaching Regulation Agency (TRA). To do this, they can contact the TRA directly.

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- references from friends or family members

Carefully consider any information about past disciplinary action or allegations.

Example scenario: safer recruitment

A football coach runs training sessions for children, aged 7 to 15, 3 times a week alongside a volunteer assistant coach who helps her to supervise the children. The volunteer assistant coach is moving to another area, so the football coach will need to find a new assistant.

One of the children's parents has mentioned the opportunity to her brother-in-law who is keen to do more voluntary work within the local community. The football coach has never met him, but he comes well-recommended by the child's parent for the assistant coach position.

Our Advice

The football coach should not rely on a recommendation from one of the children's parents. She should advertise the assistant coach position , for example in the local newspaper or relevant websites, and recommend that he apply through the proper channels.

The football coach should:

- undertake the appropriate pre-employment checks on any applicants (such as identity checks)
- invite short-listed applicants to an interview where she can ask them for details about relevant experience that would make them suitable for the role
- ask the successful candidate to provide her with references from previous voluntary experience, or employment
- check these references and follow up any concerns.

Responsibilities of regulated activity providers

Regulated activity is work that a person barred[20] from working with children or vulnerable adults, due to past behaviour or offences, must not do.

[20] In this context, "barred" means that a person is not allowed to work with children or vulnerable adults due to their past behaviour or offences

It is important to determine whether you're a regulated activity provider. If you undertake regulated activity, you have extra safeguarding responsibilities (specifically in relation to DBS checks, referrals and barring). Providers should read the detailed guidance for regulated activity with children if they are unsure whether or not they are a regulated activity provider.

Regulated activity regarding children can be broken down into the following categories of activity:

- **Activities that are done once:**
    - Personal Care – where help is provided with eating and drinking because a child is ill or has a disability; or where help is provided with toileting, washing and dressing because of a child's age, illness or disability
    - Health Care provided by a health care professional or someone acting under their direction or supervision
- **Unsupervised activities that are done more than 3 times in a 30-day period or once over night with the opportunity for contact between 2am-6am**
    - Teaching
    - Training
    - Instruction
    - Caring for or supervising children
- **Activities that are done more than 3 times within a 30-day period:**
    - Providing advice and guidance on emotional, education or physical wellbeing.
    - Driving a vehicle only for children.
    - Moderating a web-based service wholly, or mainly, for children to access and modify content, and to interact with users by a health care professional, or someone acting under their direction or supervision
- working for or in a limited range of establishments, with opportunity for contact (this does not include work by supervised volunteers), for example:
        - schools
        - children's homes
        - childcare premises
- registered childminding
- foster-carers.

Other conditions that determine whether an activity is regulated, is if:

- the same person works in or for a limited range of establishments for more than 3 days in a 30-day period or overnight between 2am and 6am; **and**
- has the opportunity for contact with children in the establishment; **and**
- works there for the purpose of the establishment; **and**
- that the role is not a temporary, occasional or a supervised volunteer role.

For example, a regulated activity would be:

- a ballet teacher training a class of children for 2 evenings a week
- an unsupervised volunteer supervising children at a tuition centre on the weekends

Disclosure and Barring Service (DBS) checks

DBS checks are a valuable part of safer recruitment practices and should be undertaken where staff, volunteers, and individuals are eligible. However, DBS checks should be regarded as a snapshot of a person's criminal or police record, and/or barred list status, at a particular point in time. Do not rely on them indefinitely or if a person's role changes. These checks are most beneficial when conducted in conjunction with other safe recruitment practices, for example, obtaining references from previous employers. The Disclosure and Barring Service (DBS) has the power to bar an individual from working in regulated activity with children or vulnerable adults (or both). Those in regulated activity are eligible for an enhanced certificate with a check of the relevant barred list(s), where there is an employer, provider or body to make the suitability decision.

Individuals can be barred if they're:

- convicted or cautioned for a relevant offence (such as sexual and violent offences)
- referred to the DBS by their employer who is concerned that the individual poses a risk of harm to children or vulnerable adults

Organisations that engage people in regulated activity have a legal duty to make a referral to the DBS, when they have dismissed or removed a member of staff from working in regulated activity after harm to a child or vulnerable adult, or where there is a risk of harm.

It is important that all relevant staff and volunteers are DBS checked. **Regulated activity providers are breaking the law if they knowingly recruit someone to work in regulated activity who has been barred from working with children by the government**.

There are four types of DBS checks as follows:

- a **basic check**, which shows unspent convictions and conditional cautions
- a **standard check**, which shows spent and unspent convictions and cautions,
- an **enhanced check**, which shows the same as a standard check plus any information held by local police that's considered relevant to the role

- an **enhanced check with a check of the barred lists**, which shows the same as an enhanced check plus whether the applicant is on the adults' barred list, children's barred list or both. Find out which DBS check is right for your employee.

An organisation registered with the DBS (known as a registered body or an umbrella body) must countersign an application for a DBS check. This could be your local authority. They might be able to give you access to apply for DBS checks. There is a list of umbrella organisations on the DBS website- Find a DBS umbrella body company - GOV.UK (www.gov.uk). The DBS also provides guidance for employers and charities working with children on how and when to request checks.

A DBS check gives information only about records held in the UK. If you want to employ someone from overseas, request a criminal records check from the countries where they have lived and worked.

DBS checks when self-employed or volunteering

If you're self-employed, you can apply for a basic DBS check. However, you're unable to apply for a standard or enhanced DBS check for yourself unless there is a contracting organisation, for example, a school, local authority or agency making a suitability decision on you. The organisation will then submit the check on your behalf.

If you're a volunteer, the type of check will depend on the activity and setting you're volunteering in. If your role is eligible for a **Standard, Enhanced**, or **Enhanced with Barred List** check, the checks on your behalf. Guidance for volunteers can be found here: DBS check application process for volunteers - GOV.UK (www.gov.uk).

Childcare disqualification and teacher prohibitions

For staff who work in childcare, and care for children up to the age of 8, employers must check that individuals have not been disqualified under the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018.

Details are available here of any individual who is subject to a teaching prohibition order. A prohibition order prevents the individual from teaching in any school, sixth-form college, children's home or youth accommodation in England. Outcomes can be viewed by entering the individuals name into the search box, with each decision being located on the final page of each outcome document.

Staff behaviour policy

It is good practice to have a staff behaviour policy. This should include:

- acceptable use of technologies
- relationships and communications between parents, children, staff and volunteers including the use of social media
- rules on staff and volunteer contact with children by phone or messaging services
- a commitment that under no circumstances should any staff member or volunteer inflict physical or psychological harm on a child.

What to do where concerns are raised about staff or volunteers who may pose a risk of harm to children

Providers should create a good low-level concerns policy. The term 'low-level' is used to describe any concern involving an adult working in a setting that may have acted in a way that is inconsistent with the staff behaviour policy (in and out of the setting) yet is otherwise not serious enough to consider a referral to the LADO. The term 'low-level' concern does not mean that it is insignificant.

A low-level concerns policy will usually be a reflection and extension of a provider's wider staff behaviour policy/code of conduct.[21] If a provider is in any doubt as to whether the information which has been shared about a member of staff, as a low-level concern, in fact meets the harm threshold, they should always consult with their LADO. Make sure you have procedures in place to manage concerns and allegations against staff and volunteers that might indicate they pose a risk of harm to children. Usually, you should refer such allegations to the DSL or another agreed senior person. They will then escalate the concern to the local authority designated officer.

Chapter two: Organisational responsibilities in the Working together to safeguard children guidance, gives more advice on dealing with allegations about people in positions of trust.

If your setting is a charity, you are required to report serious incidents, including incidents of abuse or mistreatment (alleged or actual) of beneficiaries of the charity

[21] More detailed guidance and case studies on low-level concerns can be found here: Developing and implementing a low-level concerns policy (farrer.co.uk).

(adults or children) which have resulted in, or risk significant harm, to them. More information on when and how to report an incident is also available in the Charity Commission's guidance.

If the activity in your setting means you're a regulated activity provider, you have a legal duty to refer an individual to the DBS, where:

- you have withdrawn permission for a person to engage in regulated activity with children, or moved them to an area of work that isn't regulated activity (or both)
- you think at least one of the following statements apply to the person:
    - their action or inaction has harmed a child or put them at risk or harm, or if repeated against, or in relation to, a child would endanger the child (relevant conduct)
    - they have satisfied the harm test regarding children or vulnerable adults (or both), for example, they have not harmed a child, but there is a risk that they may cause harm to a child in the future
    - they have been cautioned or convicted of a relevant offence.

You can make a referral to the DBS using the online form. The legal duty on a regulated activity provider to make a referral still applies if these conditions have been met and the individual has been re-deployed (for example, to another location), or has resigned, retired, or left the organisation. It also applies even when a referral has also been made to a local authority safeguarding team or professional regulator. Failure to do this is a criminal offence.

Example scenario: responding to a concern about a staff member

A volunteer tells the DSL of a tuition centre that he witnessed another staff member slapping a child. It allegedly happened during a class, but the volunteer believes that he is the only adult who witnessed the incident. The volunteer has only been in his role for a few weeks, whereas the member of staff he is making his accusation against has been in his role for 2 years, and the DSL has never received any complaints about his conduct before.

Our Advice

The DSL should take the concern seriously, regardless of who the person is. The DSL follows the tuition centre's safeguarding procedures.

Following these procedures, and based on the training they have received, the DSL should know that they must not attempt to investigate the allegation (for example, they should not interview the child concerned) but should keep written records of the allegations made and any other relevant information that comes to light.

The DSL should report the allegation immediately to children's social care, your Local Authority Designated Officer and the police. The DSL should call the parents of the child and give them details on how they're going to manage the allegation. The DSL should also explain to all parties involved that confidentiality is important while the concern is being investigated.

If the tuition centre removes the staff member from working with children, the DSL must also inform the DBS. Failure to do this would be a criminal offence.

Training

You should regularly monitor and review staff members and volunteers. This is to ensure they continue to be well suited and have the necessary skills and training to carry out their role and responsibilities.

It should include ensuring staff have appropriate training on health and safety and child protection. Ideally, you should have physical proof of the training that has been undertaken (for example, copies of certificates).

Legal requirements and statutory guidance

When considering the suitability of staff and volunteers in your setting, you must comply with the following legal requirements if they apply:

Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 sets out the circumstances in which an individual will be disqualified from providing relevant childcare provision or be directly concerned in the management of such provision

Immigration, Asylum and Nationality Act 2006 (sections 15 to 25) sets that an employer may be liable for a civil penalty if they employ someone who does not have the right to undertake the work in question for immigration reasons

Safeguarding Vulnerable Groups Act 2006 (as amended) provides the legislative framework for the vetting and barring system for people who work with children and vulnerable adults.

Section 3: Health and safety

Most of this section only applies to providers with staff or volunteers and lone providers.

Volunteers and employees should read the sections on duty of care, managing infectious diseases and missing child.

As a provider, you have a legal duty of care to try to ensure the environment is safe for people who visit or attend. This means you have a duty to take reasonable steps to ensure that people will be safe using the venue for the purposes for which they attend.
You're responsible for health and safety regardless of your setting, whether it is for example:

- a classroom
- youth centre
- a sports pitch
- a tuition centre
- your own home or the child's home.

You should, as a minimum, annually review and update your risk assessments - treating them as 'living documents'. You may need to update your assessments more often, for example if the circumstances in your setting change or public health advice changes. You should have active arrangements in place to monitor whether your controls for managing risks are effective and working as planned.

You should also have an emergency plan in place to help you and any staff respond effectively to an emergency at your setting; more information on making an emergency plan is available in the guidance on Emergency planning and response.

All providers **must** have a fire safety and evacuation plan.

You **should** also have:

- a register of children attending, and take a register at the start of each session
- an appointed person or at least one staff member who has first aid training
- at least one person with a current paediatric first aid certificate where children aged 5 and under are attending the provision possible) and knowledge of any medical concerns (held in compliance with GDPR)
- considered health and safety and taken steps to reduce risks
- trained all staff members on health and safety.

Providers with 5 or more staff **must** also have:

- a written health and safety policy, including a risk assessment section
- created a GDPR-compliant registration form for the children in your care, including essential contact information and medical details.

Where children aged 5 and under are attending, make sure children are adequately supervised. This includes whilst eating. Children should usually be within both sight and hearing of staff, and **always** within sight **or** hearing.

Regularly review the practices you put in place to ensure the children in your setting are safe.

For example, if you change venue, you should:

- carry out a new risk assessment
- ensure all staff members are aware of what steps to take to reduce any new risks.

Health and safety policy

You should take reasonable steps to reduce health and safety risks.

It is good practice to appoint a competent person who will help you manage your health and safety responsibilities.

This person should:

- assess the risks to any staff, volunteers, children and others involved in the setting's activities to help identify the health and safety measures that are necessary
- differentiate between regular activities and special events, (including trips) which will need a case-by-case risk assessment.
- ensure that facilities are adequate and appropriate for the activity (for example, access to sanitary facilities and drinking water)
- do a site risk assessment of the venue for both indoor and regular open-air venues (access, lighting, fire), surrounding area, and equipment - if you're renting a venue check they have complied with the Health and Safety Executive's standards
- ensure you have appropriate facilities for providing first aid and you've clearly displayed the location of the first-aid kit
- tell any employees about the risks
- introduce and clearly define the measures you need to take to manage the risks

- make sure that you give relevant training to employees and volunteers on health and safety
- make sure you have appropriate insurance cover, such as employers' liability insurance - if you're unsure which insurance is relevant, contact your local Citizens Advice

The Health and Safety Executive has guidance that can help you understand how to manage risks

You should be able to provide or show parents a health and safety policy on request.

You should update your policy each year. It should provide a statement of commitments and name the individuals responsible for:

- first aid
- electrical equipment
- accident and incident reporting to the relevant services
- general site safety
- fire safety

If you have fewer than 5 employees or volunteers

If you have fewer than 5 employees or volunteers, you do not have to write down your health and safety policy. For example, if you're providing piano lessons for children from your home, we do not expect you to have a comprehensive, written health and safety policy.

We would expect you to:

- have assessed the health and safety risks
- keep a first aid kit in your home
- know what to do in case of emergency
- be able to explain to parents the steps you have taken to reduce the health and safety risks

Example scenario: creating a health and safety policy

A self-employed dance teacher who teaches ballet to children aged 5 to 12 is moving her class to a new community hall.

The owners of the community hall have already provided her with a health and safety checklist that they expect all hirers to adhere to this includes:

- information about the building's fire risk assessment with evacuation instructions in case of emergency
- the location of the first aid box
- the public liability insurance statement

Our Advice

Even though the owners of the hall have provided information to show that they're complying with health and safety law, the dance teacher should still carry out her own risk assessment specific to the activity for which she is hiring out the hall (for example, ballet).

By carrying out a risk assessment, she may identify for instance that there is a risk of a child slipping on the floor while dancing and injuring themselves. She will then need to introduce measures to manage those risks. For example, always wearing dance shoes should inside the hall and pupils should continue to not wear any jewellery while dancing.

As she does not employ any staff or volunteers, the dance teacher does not need to write down her health and safety policy, but she decides to record the steps that she has taken to reduce risks and to inform parents of the relevant actions. For example, wearing proper footwear and no jewellery.

Fire safety

Public and private residences

If you're a private tutor working from your own home or another private residence it is good practice to have an evacuation plan.

If your setting is in a public place, a fire safety management policy and evacuation plan must[22] form part of your health-and-safety policy.

Anyone who has control of the premises (or over certain areas) may be a 'responsible person'; this could be:

- an employer
- the owner of the premises
- the occupier (such as a self-employed person or voluntary organisation)

If several people are the 'responsible person', you must work together to meet the requirements.

This applies to virtually all premises, including:

- community halls
- places of worship and other community premises
- schools and sports centres
- tents and marquees
- shared areas of properties several households live in

Specific guidance is available depending on the type of premises where you're hosting your activity or service.

For example, if you're running:

- a club in a community centre where more than 300 people could gather, refer to the fire safety risk assessment for large places of assembly
- an outdoor sporting event, refer to the fire safety risk assessment for open-air events and venues

If you're the responsible person, you must:

- carry out a fire risk assessment (see guidance on what an assessment should cover)
- consider who may be especially at risk
- reduce the risk from fire as much as reasonably possible
- provide general fire precautions to deal with any possible risks
- take further measures to make sure there is protection if you use or store flammable or explosive materials
- create an evacuation plan, tailored to the premises, to deal with an emergency (including clearly marked escape routes and exits, and a safe meeting point)

[22] The Regulatory Reform (Fire Safety) Order 2005 details the legal duty to make sure your premises and employees are kept safe from fire and can escape to safety if a fire occurs.

- record your fire-risk assessment findings if you have 5 or more employees or volunteers

If your organisation is relatively small and you think potential risks are not complex, you could complete a fire-risk assessment yourself.

If your organisation is large and complex you can get help, such as from a professional fire risk assessor. Guidance from the National Fire Chiefs Council on choosing a fire risk assessor is available.

You must make sure your fire risk assessment is up-to-date. You'll need to re-examine it if you suspect it is no longer valid, say if the level of risks in your setting changes significantly. For example, a change in the number of people using your setting).

Example scenario: fire safety

A self-employed music teacher offers piano lessons to children. Lessons typically take place in his home with one child at a time and their parent supervising the session. He has been tutoring children for 8 years and has never considered fire safety before as he is giving the lessons in his own home.

Our Advice

Fire safety law applies to most places except your own home (unless you have paying guests). This means that the music teacher does not need to carry out a fire risk assessment. However, he still has a duty of care to try to make sure that the children he is tutoring are safe.

Children are especially at risk when there is a fire. He should take reasonable steps to reduce the risk and have a clear evacuation route.

To ensure a quick evacuation in the event of a fire, he should:

- test his smoke alarms
- identify escape routes (for example, through the kitchen to the back door)
- make sure escape routes are accessible (for example, keys should be beside the door so it can be quickly opened if locked).

Managing infectious diseases and other illnesses

Extra-curricular clubs, tuition, and community activities can be sites for transmission of infections and other illnesses.

You can reduce the risk of transmission of infectious diseases and other illnesses by:

- ensuring that children and staff clean their hands regularly
- maintaining appropriate cleaning regimes using standard products, such as detergents
- keeping occupied spaces well-ventilated by opening windows or using mechanical ventilation system

Guidance on health protection in schools and other childcare facilities provides more information.

Providers may also wish to review the supporting pupils at school with medical conditions statutory guidance. Although the duty does not extend to OOSS providers, the information it contains may be useful in considering how to best support children with medical conditions.

Welcoming children back to your setting after illness

You should advise children who have the symptoms of an infectious disease or a diagnostic result to stay away from your setting. See the guidance on Managing specific infectious diseases: A to Z, within the health protection in schools and other childcare facilities collection, for the minimum recommended period.

Children with mild, respiratory symptoms such as a runny nose, sore throat, or slight cough, who are otherwise well, can continue to attend the setting.

In most cases, parents and carers will agree that their child who has symptoms, or a diagnostic result, of an infectious disease, should not attend your setting, given the potential risk to others.

Where you have a confirmed or suspected case of an infectious disease and they insist on them attending, you can take the decision to refuse the child if it is necessary to protect other children and staff from possible infection.

Parental consent and attendance registers

It is good practice to have a parental consent form when enrolling children in your setting, so you have relevant information for each child. These forms may contain data that is subject to the General Data Protection Regulation (GDPR) and Data Protection Act 2018 so it will be important that you comply the requirements of these legislation. Please, consult the Information Commissioner's website for more information.

When enrolling a child in your setting consider:

- getting more than one emergency contact number per child, as well as their parent's full name and the child's home address, where reasonably possible
- making sure you're aware of any health conditions or medical requirements
- taking note of the school the child attends
- collecting this information in a consent form that parents and carers can complete for their child - the NSPCC provides an example consent form for activities and events
- if a child has any particular needs, and discuss with parents and carers how you'll address these
- requesting updates for parental contact details; you could do this once a year if a child attends the setting for more than a year

Before they enrol their child, encourage parents and carers to meet with you either before or during a session so they're reassured their child will be safe in your care. Visiting parents and carers are not exempt from the child protection policy and procedures that your staff and volunteers follow. For example, you should never leave a child unsupervised with another parent or carer.

If more than one child attends your setting, it is good practice to create a register of attendance. This will help in an emergency, such as a fire, or if a child in your care going missing.

Missing child

If you discover that a child is missing, and you're not the designated safeguarding lead (DSL) you should alert the DSL or a senior staff member. The DSL or senior staff member should search inside and outside the building. Depending on the child's age, if there is no sign of the child, then you should contact their parents or carer to establish whether they have returned home.

If the missing child is 5 years old or under, contact the police immediately.

Once the DSL has completed these checks, if the child is still missing you should discuss with the parents or carer whether it is appropriate to contact the police. In most cases, parents and carers know the child best and will be able to assess whether their child is likely to return of their own accord or whether there are significant concerns for their safety.

The parents or carer are responsible for contacting the police. You can contact the police on their behalf if they agree.

If you or the parents contact the police, wait for them to arrive and follow their instructions. The DSL or senior staff member must continue to search while waiting

for the police to arrive. If the parents do not want to contact the police, only contact them if you consider the parent's decision to be unreasonable and the child is at significant risk of harm.

If you're a lone provider

If you're a lone provider, or staff member looking after a single child, put in place contingencies to ensure someone is available to look for a child if they go missing. This will usually mean contacting parents and carers who can then take responsibility for looking for their child.

If you discover that a child is missing and are looking after several children, you should not leave the other children unattended to search for the missing child. Instead, you should contact the missing child's parents or carer to establish whether they have returned home.

If their whereabouts are still unknown, you should request that the parents or carer take responsibility for searching for their child. You should discuss with the parents whether the police should be contacted.

Legal requirements

When considering health and safety in your settings, you must comply with the following legal requirements where they apply:

Health and Safety at Work etc. Act 1974 – it covers a wide range of duties that an employer must abide by to ensure that their workplace is safe and that those who work in a particular environment are not in danger both physically and mentally

The Regulatory Reform (Fire Safety) Order 2005 – requires the responsible person (the person having control of the building, or a degree of control) to take reasonable steps to reduce the risk from fire and makes sure people can safely escape if there is a fire and sets out other fire-safety duties they should follow

Occupiers' Liability Act 1957 – sets out the duty of care an occupier has to those who visit their premises and extends to the occupier's vehicles as well

Employers' Liability (Compulsory Insurance) Act 1969 – requires employers to have at least a minimum level of insurance against liability for injury or disease to their employees arising out of their employment

Food Safety Act 1990 – covers the responsibilities that all types of food businesses must follow

General Data Protection Regulation 2018 and the Data Protection Act 2018 – sets out the legal framework on data protection and the requirements for using it fairly and properly.

Section 4: Governance

Most of this section only applies to providers with staff or volunteers and lone providers.

Volunteers and employees should read the sections on complaints and whistleblowing policies.

Governance refers to the way organisations are run, and the rules, practices and processes they have in place to control this. Good governance is important to ensure there is a clear process in place for decision making on all aspects of the setting's operations.

Providers with staff should have:

- registered as a charity (if appropriate)
- registered with HMRC (if appropriate)
- set up a management committee
- a clear and effective complaints policy
- a clear and effective whistleblowing policy.

Lone providers should:

- understand how to declare income gained from your setting on your tax return (if self-employed)
- have a clear and effective complaints policy

Volunteers and paid employees should:

- be aware of your organisation's whistleblowing policy and complaints policy.

Review your practices and policies regularly to make sure they're working effectively.

Charities

This section only applies to providers with staff or volunteers.

Depending on your structure and activities, you may need to register as a charity with the Charity Commission for England and Wales. Most charities in England and Wales are regulated by the Charity Commission. Further guidance on safeguarding in charities is available.

When considering governance in your setting, you must comply with the Charities Act 2011. It covers the meaning of a charity and the legal duties and responsibilities of charity trustees.

There are different legal and regulatory requirements for charities in Scotland and Northern Ireland, with separate charity regulators.

All other providers

If your setting has multiple employees or volunteers and is not a charity, it is still good practice to set up a management committee. This will ensure its effective running and day-to-day management. You could refer to this group by a different name, such as the executive committee or steering group.

If you need advice on setting up a management committee, find your local voluntary and community sector organisation at the National Association for Voluntary and Community Action.

If you have volunteers or paid employees and you make a profit, you must register with HMRC. If you're self-employed, read the guidance on completing a self-assessment tax return.

Complaints policy

You should have a clear policy to deal effectively with complaints.

You should:

- publish a complaints policy and procedures on your website or display it in your setting including:
    - how to make a complaint
    - whether in person or in writing
    - who to complain to
    - how you'll deal with the complaint

- establish a whistleblowing policy so staff can raise concerns about:
    - how the setting is run
    - other members of staff
    - the maltreatment of any children
    - other bad practice

Whistleblowing policy

All staff and volunteers should feel able to raise concerns about poor or unsafe practice and potential failures in the provider's safeguarding regime. They should know that you'll take any concerns seriously.

You should have appropriate whistleblowing procedures in place so that staff can raise concerns with your senior leadership team. The Advisory, Conciliation and Arbitration Service (ACAS) has guidance on raising grievances at work. Find a whistleblowing list of prescribed people and bodies.

If a staff member feels unable to raise an issue with their employer, they should read the guidance on alternative routes.

Personal grievances such as bullying, harassment and discrimination are not covered by UK whistleblowing law. Staff may not be legally protected against unfair treatment or loss of income as a result of 'blowing the whistle' if they're not a paid employee of the organisation in question. However, it is good practice (but not a legal duty) for all settings to have a formal and clear whistleblowing policy.

Volunteers should read the guidance on how to report serious wrongdoing at a charity as a worker or volunteer. They may also find it helpful to seek independent advice from organisations such as Citizens' Advice or ACAS before taking action.

Call the NSPCC's whistleblowing advice line if you have concerns about how child protection issues are being handled in an organisation.

Legal requirements and statutory guidance

When considering governance in your setting, you must comply with the following legal requirements if they apply:

Charities Act 2011 is the main piece of legislation affecting charities in England and Wales. Among other things, it covers the meaning of a charity and the legal duties and responsibilities of charity trustees.

Business tax: detailed information is a hub of guidance which provides further information on when you are responsible for registering with HMRC for self-employed providers as well as small/ mid-sized and large companies.

Other considerations

There are other requirements you may need to consider to make sure your setting is safe.

Using school, college, or local authority premises

If you use a school, college or local authority premises, the school or college must continue to have regard to keeping children safe in education and the local authority must have regard to Working together to safeguard children - GOV.UK (www.gov.uk). When using school, college or local authority premises, you should continue to implement this guidance for example, appointing your own DSL and putting in place safeguarding policies and procedures specific to your activity. However, you must also comply with any terms that the school, college or local authority sets.

Check that the school or college has included safeguarding in their:

- rental or hire agreement
- memorandum of understanding if there is no formal contract

Extremism and radicalisation

Staff and volunteers should be vigilant of children vulnerable to radicalisation.

Children can become exposed to extremist material and views associated with terrorist groups online. There is a risk that they will share this harmful content with their peers.

You should also be vigilant to the risk of other staff members being vulnerable to radicalisation or staff members promoting extremist views to the children in your setting. This exposure may be through the sight of criminal acts that encourage or justify violence. It could also be through the distribution of inflammatory materials or information that:

- glorifies or incites terrorism
- calls for the deaths of members of the British armed forces
- actively promote hatred towards other people or groups based on their belief, opinion or background

If you have extremism-related concerns, contact your local authority's Prevent lead or designated officer.

You can find more information on Prevent training at Educate Against Hate. Although Educate Against Hate resources are tailored towards school audiences, you may still find the content useful in helping you to understand how to keep children that attend your settings safe from extremism and radicalisation. You may also wish to signpost parents and carers to Netmums' Action Counters Terrorism (ACT) early resources.

Online safety issues

It is important to recognise children are at risk of abuse and other risks online as well as face to face. In many cases, abuse and other risks will take place concurrently both online and offline.

Reflect your approach to online safety in your child protection policy. You can also have a standalone online safety policy.

An effective approach to online safety:

- empowers you to protect and educate children in their use of technology
- establishes mechanisms to identify, intervene in, and escalate any incidents where appropriate.

Staying safe online includes a wide range of issues. The 4 main risk areas are:

- content - seeing illegal, inappropriate or harmful material, for example:
  - pornography
  - fake news
  - racist views
  - misogyny
  - self-harm and suicide
  - extremist views
  - the glamorisation of drugs or gang lifestyles
  - eating disorders
- contact - harmful online interaction with other users, for example:
  - child-to-child pressures
  - commercial advertising
  - adults posing as children or young adults
- conduct - personal online behaviour that increases the likelihood of, or causes, harm, for example:
  - making, sending and receiving explicit images
  - online bullying
- commercialisation – the risk of people exploiting children for financial gain

You should be able to show you have:

- a good general understanding of the different risks young people can face online
- positive, supportive conversations about online safety with young people when appropriate

Accreditation is available for online education providers that meet the eligibility criteria.

Online safety policy

If you provide internet-connected devices or internet connectivity, you should have an online safety policy for staff, volunteers and children. This will help safeguard children from potentially harmful online material and inappropriate conduct or contact.

Your written online safety policy or an acceptable use policy could be part of your child protection policy. This should outline specific procedures or codes of conduct for children and staff to follow. Make sure all staff (including volunteers), parents, carers and children understand and comply with your online safety policy.

You should have filtering and monitoring systems in place on all devices provided by your setting, and regularly review the effectiveness. The Department for Education has published filtering and monitoring standards to support schools with this, which you may also find useful. Additional guidance on filtering and monitoring is provided by the UK Safer Internet Centre: Appropriate filtering and monitoring: A Guide for education settings and filtering providers.

Additionally, online sexual abuse can be reported on the Child Exploitation and Online Protection's website CEOP Safety Centre and a report can be made to one of its Child Protection Advisors.

Child performances

Under Section 37 of the Children and Young Persons Act 1963, you must get a licence before a child can take part in certain types of performances. This would include, for example:

- performances you're charging for
- performances on premises licenced to sell alcohol (such as a theatre or hotel)
- any live broadcast performance, such as a television or radio broadcast

For performances where no payment is made in respect of the child taking part, there are some exemptions to the licencing requirements which may apply. For

more information on exemptions to the licencing requirement, see the advice on child performance and activities licensing legislation in England.

If you're unsure whether you need to apply for a child performance licence, you should contact your local authority for advice.

If your setting puts on performances or events in which a child performance licence is needed, you must apply for individual licences for each child at least 21 days before the event. An approved chaperone must supervise all children taking part.

Photography and sharing images

If, during events and activities, family and friends of the children in your care want to record and share photographs or films of their achievements, consider having a photography policy statement. This should set out your overall approach to images taken of children during events and activities.

If you wish to take photographs of the children who attend your setting for your website, it is important that you:

- get parental consent (consider updating it annually)
- explain to parents and carers how you'll use the images, where you'll use them and how long you'll keep them for
- explain what actions you'll take to keep children safe

Visitors and visiting speakers

You should not have people who are not a part of your organisation at your setting while children are present. If other people will be present besides the instructor or other children's parents, you should have a visitors' book where they can sign in and out and ask them to show ID. You should ensure that any adult who is not a member of staff is never alone with a child in your care.

When booking visiting speakers, you should assess any risks and put in place policies and procedures to protect the children in your care.

Visiting speakers are not exempt from the child protection policy and procedures that your staff and volunteers follow. For example, you should never leave a child unsupervised with a visiting speaker.

Educational visits and overnight stays

If you're taking children on an overnight stay, you'll need a parent or carer's consent on each occasion. You should:

- meet parents or carers in advance to explain the arrangements and answer any questions
- explain the steps you're taking to keep their children safe
- make sure parents and carers know the address of where you'll be staying and have your contact details
- have at least one emergency contact number for the parent or carer of each child attending

Educational visits or overnight stays are subject to risk assessments. Your risk assessments should include reasonable steps you'll take to ensure the children in your care are safe and reflect any public health advice.

For international educational visits, you should refer to the foreign travel advice before booking and travelling.

In overnight accommodation, make sure there are separate sleeping, washing and toilet areas for adults, older and younger children, and according to sex. Overnight stays for groups of mixed sex should have at least one male and one female supervisor.

You should make sure children know what to do if there is an emergency during the night, such as a fire alarm.

For more information, refer to the guidance on educational visits.

GDPR and the Data Protection Act 2018

The General Data Protection Regulation (GDPR) and Data Protection Act 2018 (the Act) place duties on organisations and individuals to

- process personal information fairly and lawfully
- keep the information they hold safe and secure

You should make sure the information you hold about children is not shared inappropriately or in a way that might lead to its misuse.

You should not keep personal information longer than necessary. Base how long you need to keep information on your setting's needs and legal requirements. For

example, securely store a parental consent form that includes emergency contact numbers until the child no longer attends your setting. Then dispose of it securely.

GDPR does not prevent:

- the legitimate sharing of information for the purposes of keeping children safe
- an employer from asking questions on safeguarding grounds about the suitability of an individual employed

Concerns about sharing information must not obstruct the promotion and protection of children's safety and welfare.

Useful resources include:

- guidance on data protection for employers carrying out criminal records checks
- a GDPR myth buster in Chapter 1 of the working together to safeguard children guidance, under the information sharing section
- guidance on data protection in schools

Food safety

If you provide food in your setting, you must by law:

- abide by food safety regulations
- ensure the food is safe to eat
- prepare the food in an appropriate way for the age and developmental needs of the child. This resource is primarily targeted at those offering Early Years provision, however, all providers may find its contents beneficial.

You may need to register with your local authority as a food business if you provide food on a regular and organised basis. If you supply food on an occasional and small-scale basis, it is unlikely you'll need to register.

Check to see what applies to your setting:

- providing food at community and charity events
- Food Standards Agency guidance on providing food - this includes childminders and volunteers or charity organisations

Useful resources for providers

Safeguarding and child protection

- Working Together to Safeguard Children 2018 provides statutory guidance to all organisations and agencies who have functions in relation to children
- Keeping Children Safe in Education 2019 provides guidance on safeguarding and promoting the welfare of children for schools and colleges
- What to do if you're worried a child is being abused is DfE advice for anyone who comes into contact with children and families while working. It describes the signs of abuse and neglect and the action to take if a child appears to be, or is at risk of being, abused or neglected
- The Universal SEND Services programme offers organisations free online Continuing Professional Development (CPD) units to support providers in delivering an inclusive experience for children and young people with SEND
- NSPCC Learning: Introductory guide to safeguarding and child protection for the voluntary and community sector (formerly 'Are they safe?)
- NSPCC Safeguarding and child protection standards for the voluntary and community sector guidance. These resources are available to help non-statutory organisations in the UK that work with children and young people up to the age of 18 with their safeguarding arrangements
- the NSPCC also sends free weekly e-mail alerts to keep you up-to-date with the latest national safeguarding and child protection news. You can sign up online
- Sector Specific Guidance
- For further help handling safeguarding allegations in a charity, see the Department for Culture, Media and Sport's online safeguarding tool
- The Charity Commission has guidance on safeguarding and protecting people for charities and trustees
- the Child Protection in Sport Unit has advice on how to deal with safeguarding concerns
- The Tutors' Association offers resources for all of its members including safeguarding, professional practice and ethical behaviour in the tuition sector
- The National Youth Agency offers sector specific guidance, resources, training, and support for providers in safeguarding and ethical behaviour in the youth sector.
- The Government and the Sport and Recreation Alliance has UK Concussion Guidelines for Grassroots Sport which will help players, coaches, parents, schools, National Governing Bodies and sports administrators to identify, manage and prevent the issue.

Guidance on types of abuse

- The Centre of expertise on Child Sex Abuse also have some resources to help providers identify and respond appropriately to concerns – these can be found here: Supporting practice in tackling child sexual abuse - CSA Centre
- The harmful sexual behaviour prevention toolkit has been designed by the Lucy Faithfull Foundation in collaboration with the Home Office for parents, carers and professionals working with children. As well as support, advice and information, it has links to key organisations and helplines, resources about harmful sexual behaviour by children, tips about internet safety and advice about sexual development and preventing child sexual abuse
- The National Crime Agency's website hosts resources for protecting children from Child Sex Abuse online. It has resources for various age groups from 4 to 14+, as well as for parents and carers, and people working with children
- Child sexual exploitation: definition and guide for practitioners (PDF, 353KB) is DfE advice for anyone who works with children and families. The guide can help OOSS providers to identify child sexual exploitation and take appropriate action in response
- Child exploitation disruption toolkit - GOV.UK (www.gov.uk) has been developed to provide disruption tactics for those working to safeguard children and young people under the age of 18 from sexual and criminal exploitation. This includes social workers, police officers, housing officers, education staff, healthcare staff, and others
- Safeguarding children who may have been trafficked (PDF, 3.1MB) is practical, non-statutory guidance for agencies in England which are likely to encounter, or have referred to them, children and young people who may have been trafficked.
- Managing risk of radicalisation in your education setting - GOV.UK (www.gov.uk)
- Making a referral to Prevent - GOV.UK (www.gov.uk) - Find out how to report any concerns you have about a child, young person or adult learner who you think may be vulnerable to being drawn into extremism.

Suitability of staff

- The Child Protection in Sport Unit outlines safe recruitment and selection procedures
- You can find the DBS Eligibility Check tool online, as well as a plain-language explanation of regulated activity with children in England
- The DBS also has information about applying for criminal records checks
- Farrer and Co have produced guidance on dealing with low-level concerns about adults to safeguard children (PDF, 402KB).

General Data Protection Regulation (GDPR)

- Guidance on data protection issues for employers carrying out criminal records checks is available on the ICO website
- 'Working Together to Safeguard Children' provides a GDPR myth buster
- DfE provides a data protection toolkit for schools (PDF, 2.5MB) that you may also find useful for your setting
- The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation (GDPR). More information about Data Protection can be found on GOV.UK.

Health and safety

- For advice on site safety, check what is available on your local authority's website. The local Fire and Rescue Service, Police and local authority might be able to help
- You can find a template by the Health and Safety Executive (HSE) for creating a health and safety policy for your setting. The link also includes an example of a good health-and-safety policy. If you operate in a classroom setting, this checklist (PDF, 158KB) may be more relevant
- General guidance on workplace health, safety and welfare
- HSE's Education guidance provides information for schools which you may find useful for your setting
- DfE also provides advice on health and safety for schools, which you may find useful for your setting
- Advice on the Control of Substances Hazardous to Health (COSHH) guidance, including advice on the control of substances hazardous to health
- information and advice on fire safety in the workplace
- The Association of British Insurers (ABI) provides online information on insurance and public liability insurance in particular
- DfE provides advice on health and safety for educational visits which settings may find useful.

Miscellaneous

- The Charity Commission
- The Charity Governance Code
- The Charity Ethical Principles
- HMRC
- Search for your local authority's website

Department for Education

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