Keeping Safe In Education 2021
For information version published

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On 6th July 2021, the DfE published the 'for information' version of Keeping Children Safe in Education 2021. This will come into force in September 2021; schools should continue to use the current version until then.

In addition, a new version of 'Sexual Violence and Sexual Harassment' has also been published, ready to come into force in September 2021.

In this article I look at the main developments in the new Keeping Children Safe in Education (2021) statutory guidance document.

Peer-on-Peer Abuse

As you would expect given the issues that have been raised recently, one area that has been extensively overhauled in KCSIE is peer-on-peer sexual abuse in schools. I think the tone has changed and the detail is much clearer. Whether the processes schools should follow when a perpetrator and victim are in the same school, or when police investigations are ongoing, will be enough to satisfy headteachers and governors, I'm not so sure. Paragraph 88 says, 'taking disciplinary action and still providing appropriate support are not mutually exclusive actions. They can, and should, occur at the same time if necessary.'

It is clear in this new guidance that incidents of sexual violence and sexual harassment should be taken seriously. Paragraph 18 says, 'All staff should be able to reassure victims that they are being taken seriously and that they will be supported and kept safe. A victim should never be given the impression that they are creating a problem by reporting abuse, sexual violence or sexual harassment. Nor should a victim ever be made to feel ashamed for making a report.' The many forms that peer-on-peer abuse might take can be found in paragraph 49.

Since the Sexual Violence and Sexual Harassment guidance was first published in 2015, schools have been reminded that any peer-on-peer abuse should be treated seriously and not as 'banter' or an inevitable part of growing up. The guidance here strengths this even further and underlines the idea that these are abusive behaviours which may indicate that the perpetrator may present as an on-going risk to students. In other words, this is harmful sexual behaviour that should be addressed to 'help prevent problematic, abusive and/or violent behaviour in the future'.

It will be important that headteachers, DSLs and senior leaders understand the impact of these clear expectations about peer-on-peer abuse on the day-to-day work of the school; and to be able to communicate these expectations on staff in all roles.

Schools will need to update their safeguarding and child protection policies so that it reflects the whole school approach to peer on peer abuse in its many forms. The policy should clearly set out its reporting systems as set out at paragraph 83: 'Where

there is a safeguarding concern, governing bodies, proprietors and school or college leaders should ensure the child's wishes and feelings are taken into account when determining what action to take and what services to provide. Systems should be in place, and they should be well promoted, easily understood and easily accessible for children to confidently report abuse, knowing their concerns will be treated seriously, and knowing they can safely express their views and give feedback.'

A new section for boarding schools, residential special schools, residential colleges and children's homes reminds proprietors and staff that there are additional factors to affect safeguarding, in particular opportunities and vulnerabilities for peer-on-peer abuse; and inappropriate staff/pupil relationships.

One issue in the past has been that safeguarding was seen as a 'bolt-on' or a 'tick-box' exercise. Fortunately, that's no longer true in many schools and in this republished KCSIE the development of a safeguarding culture is emphasised. Paragraph 82 says, 'governing bodies and proprietors should ensure they facilitate a whole school or college approach to safeguarding. This means ensuring safeguarding and child protection are at the forefront and underpin all relevant aspects of process and policy development. Ultimately, all systems, processes and policies should operate with the best interests of the child at their heart.'

Other new paragraphs in KCSIE reinforce this: 'Good safeguarding requires a continuing commitment from governing bodies, proprietors, and all staff to ensure the safety and welfare of children is embedded in all of the organisation's processes and procedures, and consequentially enshrined in its ethos.' (Paragraph 324)

Keeping Children Safe in Education 2021 says 'the training that staff receive 'including online safety training, is integrated, aligned and considered as part of the whole school or college safeguarding approach and wider staff training and curriculum planning.' (Paragraph 117) The CPD programme should be reviewed to ensure that all the knowledge staff need is included and, perhaps more importantly, that they understand how it is to be implemented.

For many adults, there is a separation in their minds between 'real life' and the 'online world'. This is a dangerous misconception, as the connected world embraces both online and offline; for young people there is no separation.

Paragraph 24 says, 'All staff should be aware that technology is a significant component in many safeguarding and wellbeing issues. Children are at risk of abuse online as well as face to face. In many cases abuse will take place concurrently via online channels and in daily life. Children can also abuse their peers online, this can take the form of abusive, harassing, and misogynistic messages, the non-consensual sharing of indecent images, especially around chat groups, and the sharing of abusive images and pornography, to those who do not want to receive such content.'

Interestingly, given the high-frequency sharing of nude and semi-nude images, KCSIE says 'Consensual image sharing, especially between older children of the same age, may require a different response. It might not be abusive - but children

still need to know it is illegal - whilst non-consensual is illegal and abusive. UKCIS provides detailed advice about sharing of nudes and semi-nude images and videos.'

Whilst devising and implementing policies and procedures schools and colleges should ensure online safety is a 'running and interrelated theme'. Online safety should be considered 'whilst planning the curriculum, any teacher training, the role and responsibilities of the designated safeguarding lead and any parental engagement.' (Paragraph 125)

Managing allegations against staff

Part four: Allegations made against/Concerns raised in relation to teachers, including supply teachers, other staff, volunteers and contractors

Part Four has had a major section added. Some years ago, perhaps the UK's most serious and prolific child abuse case involving a teacher came to light affecting a large number of victims in England. The subsequent serious case review said that the DfE 'should be asked to revise...Keeping Children Safe in Education to include training on the modus operandi of sex offenders'. In this terrible case, as in others, it was the grooming behaviours that some people noticed, but didn't recognise as such.

Understanding grooming never appeared in KCSIE, but this year's update does now include 'low-level' concerns. As paragraph 409 explains, 'The term 'low-level' concern does not mean that it is insignificant, it means that the behaviour towards a child does not meet the threshold of harm. A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a 'nagging doubt' - that an adult working in or on behalf of the school or college may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work, and
- does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.

Paragraph 410 gives examples of such 'low-level' concerns which 'could include, but are not limited to:

- being over friendly with children;
- having favourites;
- taking photographs of children on their mobile phone;
- engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or,
- using inappropriate sexualised, intimidating or offensive language.

This means that 'governing bodies and proprietors should set out their low-level concerns policy within their staff code of conduct and safeguarding policies' (paragraph 413).

Paragraph 415 says, 'Schools and colleges can achieve the purpose of their low-level concerns policy by, for example:

- ensuring their staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others;
- empowering staff to share any low-level safeguarding concerns with the designated safeguarding lead (or a deputy);
- addressing unprofessional behaviour and supporting the individual to correct it at an early stage;
- providing a responsive, sensitive and proportionate handling of such concerns when they are raised; and,
- helping identify any weakness in the school or colleges safeguarding system.

Information Sharing

In this updated version of KCSIE, I think the DfE has been clearer than ever before about the duties and powers schools have to share information. It says, 'Information sharing is vital in identifying and tackling all forms of abuse and neglect, and in promoting children's welfare, including their educational outcomes. Schools and colleges have clear powers to share, hold and use information for these purposes' (paragraph 105).

Sometimes schools have felt more confident about sharing serious concerns. Paragraph 107 says that 'School and college staff should be proactive in sharing information as early as possible to help identify, assess, and respond to risks or concerns about the safety and welfare of children, whether this is when problems are first emerging, or where a child is already known to the local authority children's social care.'

Mental Health

Last year, the definition of safeguarding was updated to include mental health. There is more information in this version of Keeping Children Safe in Education about mental health. Paragraph 45 says 'if staff have a mental health concern about a child that is also a safeguarding concern, immediate action should be taken, following their child protection policy, and speaking to the designated safeguarding lead or a deputy.'

Online safety policy

The government has recently made its view know about wanting to ban mobile phones in school, partly to tackle the taking and distribution of indecent images by pupils and cyberbullying.

Paragraph 126 says, 'the school or college should have a clear policy on the use of mobile and smart technology. Amongst other things this will reflect the fact many children have unlimited and unrestricted access to the internet via mobile phone networks (i.e. 3G, 4G and 5G). This access means some children, whilst at school or college, sexually harass their peers via their mobile and smart technology, share

indecent images: consensually and non-consensually (often via large chat groups), and view and share pornography and other harmful content. Schools and colleges should carefully consider how this is managed on their premises and reflect in their mobile and smart technology policy and their child protection policy.

Reviewing online safety

As technology, and risks and harms related to it, evolve and changes rapidly, KCSIE now says 'schools and colleges should consider carrying out an annual review of their approach to online safety, supported by an annual risk assessment that considers and reflects the risks their children face.' (See paragraph 132).

Use of school or college premises for non-school activities

It has not always been clear who is responsible for safeguarding when a school is let out to third-party users. KCSIE now says that when 'services or activities are provided by the governing body or proprietor, under the direct supervision or management of their school or college staff, their arrangements for child protection will apply.

However, where services or activities are provided by another body, the governing body or proprietor should seek assurance that the body concerned has appropriate safeguarding and child protection policies and procedures in place (including inspecting these as needed); and ensure that there are arrangements in place to liaise with the school or college on these matters where appropriate.

The safeguarding arrangements should be included in any lease or hire agreement as a condition of use and occupation of the premises; and that failure to comply with this would lead to termination of the agreement.

Elective Home Education

The DfE recognise that 'many home educated children have an overwhelmingly positive learning experience'. However, it can also 'mean some children are less visible to the services that are there to keep them safe and supported in line with their needs'.

Paragraph 167, says that 'where a parent/carer has expressed their intention to remove a child from school with a view to educating at home, we recommend that LAs, schools, and other key professionals work together to coordinate a meeting with parents/carers where possible. Ideally, this would be before a final decision has been made, to ensure the parents/carers have considered what is in the best interests of each child. This is particularly important where a child has SEND, is vulnerable, and/or has a social worker.'

Children with special educational needs and disabilities or physical health issues

The child protection policy should reflect the fact that additional barriers can exist when recognising abuse and neglect in this group of children (see paragraph 185).

(It is interesting that 'physical' health is specified and 'mental health' is missing, as the general aim is to have parity for mental health. I think that this should be reflected here; mental health conditions may cause barriers for reporting concerns.)

Paragraph 186: 'Governing bodies and proprietors, should...ensure that their child protection policy reflects...[the] additional challenges [for this group of children] by considering extra pastoral support and attention...along with ensuring any appropriate support for communication is in place.'

External Visitors

Contractors

Paragraph 272 says, 'Where schools and colleges use contractors to provide services, they should set out their safeguarding requirements in the contract between the organisation and the school or college.'

Visiting Professionals

Paragraph 284: 'For visitors who are there in a professional capacity check ID and be assured that the visitor has had the appropriate DBS check (or the visitor's employers have confirmed that their staff have appropriate checks). [In my view, this will mean that self-employed professionals should show their DBS, as they have no employer to confirm that this has been done.]

Paragraph 286 says, 'School and college safeguarding policies should set out the arrangements for individuals coming onto their premises, which may include an assessment of the education value, the age appropriateness of what is going to be delivered and whether relevant checks will be required.

Section 128 Prohibitions

This updated version of KCSIE gives more clarification of 'management' roles that should be considered as 'management' in an independent school. Although some named roles were suggested in the past the DfE note that the individual's job title is not the determining factor and other individuals could be considered to be 'taking part in management' (see paragraph 238). (I think this is probably because recently there have been a couple of cases where the person prohibited was not performing role specified previously.)

Further Information

Several new topics appear in the further information section:

- **Child abduction and community safety incidents**

- **Modern Slavery and the National Referral Mechanism**

- **Cybercrime**

  - It is interesting to note the following statement:

    o 'Children with particular skill and interest in computing and technology may inadvertently or deliberately stray into cyber-dependent crime.' (Page 130)

- **Domestic Abuse**

  - This section is new to reflect the changes following the Royal Assent of the Domestic Abuse Act 2021 on 29 April 2021.

  - The Act introduces the first ever statutory definition of domestic abuse and recognises the impact of domestic abuse on children, as victims in their own right, if they see, hear or experience the effects of abuse. The statutory definition of domestic abuse, based on the previous cross-government definition, ensures that different types of relationships are captured, including ex-partners and family members. The definition captures a range of different abusive behaviours, including physical, emotional and economic abuse and coercive and controlling behaviour.

  - For more information see page 130

Annex C: Role of the designated safeguarding lead

There are some additions to the role of the DSL:

The need to now liaise with the senior mental health lead and, where available, the Mental Health Support Team, where safeguarding concerns are linked to mental health.

Last year DSLs were to 'help promote educational outcomes by sharing the information about the welfare, safeguarding and child protection issues that children...are experiencing, or have experienced'. This role has rather increased now because the 2021 version says DSLs should take 'lead responsibility for promoting educational outcomes by knowing the welfare, safeguarding and child protection issues that children in need are experiencing, or have experienced, and identifying the impact that these issues might be having on children's attendance, engagement and achievement at school or college' (see page 147).

Whilst I think DSLs are extremely well-placed to share the information and to work with colleagues, I'm not sure they have capacity to do take 'lead responsibility' for this over-arching task.

Understanding the views of children

A new paragraph in Keeping Children safe in Education (2021) emphasises the importance of understanding the views of young people. Page 150 says, 'It is important that children feel heard and understood. Therefore, designated safeguarding leads should be supported in developing knowledge and skills to:

- encourage a culture of listening to children and taking account of their wishes and feelings, among all staff, and in any measures the school or college may put in place to protect them; and

- understand the difficulties that children may have in approaching staff about their circumstances and consider how to build trusted relationships which facilitate communication.

What to do now?

There is plenty to do to ensure that all these changes are reflected in your school. I think some of the more important will be:

- ☐ Set aside time to read the detail, particularly Part 4 (low-level concerns) and Part 5 (Sexual Violence and Sexual Harassment)

- ☐ Review the staff CPD programme to ensure that the new information and topics will be covered appropriately. Ensure especially that peer-on-peer abuse, sexual violence and sexual harassment and harmful sexual behaviour is understood and acted up by all staff.

- ☐ Check that the following policies are updated:

  - safeguarding and child protection
  - staff code of conduct
  - online safety
  - behaviour policy
  - safeguarding arrangements for the hire of school premises are set out in the hire agreement (see paragraphs 155/156)

- ☐ Check that your safer recruitment processes are compliant (see Part Four)

- ☐ Check that child protection records include all the statutory requirements (see paragraph 71)

- ☐ Consider when to implement an annual review of online safety

- ☐ Consider how barriers to reporting could be overcome for children with SEND or physical health issues

How I can help

Over the next few weeks, I will developing further guides and videos to support your next steps. These will be available in Safeguarding.Pro by Monday 23rd August 2021, ready for you to use next term to inform and educate your staff teams.

[Click here to join Safeguarding Pro](#)

Download the guidance

Keeping Children Safe in Education
https://www.gov.uk/government/publications/keeping-children-safe-in-education--2

Sexual violence and sexual harassment between children in schools and colleges
https://www.gov.uk/government/publications/sexual-violence-and-sexual-harassment-between-children-in-schools-and-colleges