

# Safeguarding Children

## 2015 Changes in legislation & guidance: summary

### Working Together to Safeguard Children 2015

On the 26th March 2015, the government published '[Working Together to Safeguard Children 2015](#)'. This is a revised version of the previous guidance from 2013. Many of the revisions have been made to incorporate legislation or statutory guidance that has been set out over the last couple of years. This revised document also makes it clear that safeguarding and child protection guidance applies to all schools and colleges whatever their status or constitution.

[Working Together to Safeguard Children 2015](#) is the key document that sets out what local authorities should do. This also includes "adult services, the police, academy trusts, education, youth justice services and the voluntary and community sector who have contact with children and families".

The guidance reminds all professionals that come into contact with children and young people of these two principles:

#### Key principles

- **safeguarding is everyone's responsibility:** for services to be effective each professional and organisation should play their full part; and
- **a child-centred approach:** for services to be effective they should be based on a clear understanding of the needs and views of children.

#### Changes in [Working Together to Safeguard Children 2015](#)

- LSCBs must commission services for children who have been or may be:
  - sexually exploited
  - subject to Female Genital Mutilation (FGM)
  - radicalised
- Local authorities must establish Channel panels to assess the extent to which identified individuals are vulnerable to being drawn into terrorism and arrange for support to be provided to them. Education is a panel partner.
- Young carer's assessments must reach a view on whether any care tasks are "inappropriate" or "excessive."
- Organisations need clear whistleblowing procedures in line with Sir Robert Francis's Freedom to Speak Up report
- Previously local authorities must have in place a 'Local Authority Designated Officer' (LADO) to handle all allegations against adults who work with children and young people. Although this practice must continue, [Working Together to safeguard Children 2015](#) no longer refers to them as LADOs only 'designated officers' or teams. People undertaking this must now be qualified social workers (apart from people currently in post or moving between authorities).
- Other changes include notifiable incidents involving the care of a child, the definition of serious harm for the purposes of serious case reviews and child death reviews

## The main changes directly relevant to schools are:

- The addition of guidance on which incidents LAs must report to Ofsted (pages 74-75 of the updated guidance)
- Clarification of the fact that the guidance applies in its entirety to all schools, including independent schools, academies and free schools (pages 6-7 and 55 of the updated guidance)
- Updates to take account of the special educational needs (SEN) provisions introduced by the Children and Families Act 2014, and the addition of a reference to the Special Educational Needs and Disability Code of Practice (pages 27 and 94 of the updated guidance)
- The addition of a reference to a recent DfE guidance document on information sharing for practitioners providing safeguarding services (page 17 of the updated guidance)
- The addition of the requirement for all organisations with safeguarding responsibilities, including all schools, to have in place whistle-blowing procedures that are integrated into training and codes of conduct (pages 53 and 55 of the updated guidance)

## LSCBs: objectives, functions and accountability

Chapter 3 of the [Working Together to Safeguard Children 2015](#) document covers the role of LSCBs, explaining:

An LSCB must be established for every LA area.

On page 65, it sets out the statutory objectives of LSCBs, which are to:

- Co-ordinate what is done by each person or body represented on the board for the purposes of safeguarding and promoting the welfare of children in the area
- Ensure the effectiveness of what is done by each such person or body for those purposes

The guidance explains that LSCBs have a duty to develop policies and procedures for safeguarding children, including in relation to:

- The action to be taken where there are concerns about a child's safety or welfare, including thresholds for intervention
- Training for persons who work with children
- Recruitment and supervision of persons who work with children
- Investigating allegations concerning persons who work with children
- Co-operation with neighbouring children's services authorities

## **A notifiable incident is an incident involving the care of a child which meets any of the following criteria:**

- a child has died (including cases of suspected suicide), and abuse or neglect is known or suspected;
- a child has been seriously harmed and abuse or neglect is known or suspected;
- a looked after child has died (including cases where abuse or neglect is **not** known or suspected); or
- a child in a regulated setting or service has died (including cases where abuse or neglect is **not** known or suspected).

The local authority should report any incident that meets the above criteria to Ofsted and the relevant LSCB or LSCBs promptly, and within five working days of becoming aware that the incident has occurred.

For the avoidance of doubt, if an incident meets the criteria for a Serious Case Review (see below) then it will also meet the criteria for a notifiable incident (above). There will, however, be notifiable incidents that do not proceed through to Serious Case Review.

Contact details and notification forms for notifying incidents to Ofsted are [available on Ofsted's website](#).

### **Clarification of seriously harmed**

“Seriously harmed” in the context of the paragraph below and regulation 5(2)(b)(ii) (see p75 [Working Together to Safeguard Children 2015](#)) includes, but is not limited to, cases where the child has sustained, as a result of abuse or neglect, any or all of the following:

- a potentially life-threatening injury;
- serious and/or likely long-term impairment of physical or mental health or physical, intellectual, emotional, social or behavioural development.

This definition is not exhaustive. In addition, even if a child recovers, this does not mean that serious harm cannot have occurred. LSCBs should ensure that their considerations on whether serious harm has occurred are informed by available research evidence.

Cases which meet one of the criteria (i.e. regulation 5(2)(a) and (b)(i) or 5(2)(a) and (b)(ii)) **must always** trigger an SCR. Regulation 5(2)(b)(i) includes cases where a child died by suspected suicide. Where a case is being considered under regulation 5(2)(b)(ii), unless there is definitive evidence that there are no concerns about inter-agency working, the LSCB **must** commission an SCR.

## **Keeping Children Safe in Education 2015**

‘[Keeping Children Safe in Education 2015](#)’ is a revision of the previous document. The body of the document is largely unchanged, but there are new inclusions that draw in new guidance or legislation since the original was published, including disqualification by association (Childcare (Disqualification) Regulations 2009) and duties under the Counter

Terrorism and Security Act 2015. The new version of [Keeping Children Safe in Education 2015](#) also refers to two other updated documents, '[What to do if you're worried a child is being abused 2015](#)' and '[Information Sharing 2015](#)'. It is noted that [Working together to Safeguard Children](#) has also been updated.

[Keeping children safe in education 2015](#) is statutory guidance and all schools and colleges must have regard to it whatever their status. Schools includes:

- maintained nursery schools
- maintained, non-maintained or independent schools
- academies and free schools
- alternative provision academies and
- pupil referral units.

Colleges includes further education colleges and sixth-form colleges (for students under the age of 18), but excludes 16-19 academies and free schools (which are required to comply with relevant safeguarding legislation by virtue of their funding agreement).

### **Policies**

[Keeping children safe in education 2015](#) emphasises that safeguarding policies should include:

- staff relationships with pupils
- reference to the 'Position of Trust' offence (Sexual Offences Act 2003)
- communications on social media
- information sharing

### **Allegations of abuse made against teachers and other staff**

In the previous edition, where staff had concerns about another adult in school, it could be reported to the headteacher or Designated Safeguarding Lead. In this edition, reports must be made only to the headteacher.

Each local authority must make arrangements for the management of allegations of abuse by staff. In the past the person responsible for those allegations has been called the Local authority Designated Officer (LADO). [Working Together to Safeguard Children 2015](#) has slightly changed this role to allow LAs to develop teams, integrate the work in other child protection work and, apart from current post-holders, the staff carrying out this work must now be qualified social workers.

After any allegations of abuse have been made, there are a range of specified outcomes:

- substantiated,
- malicious
- false and
- unsubstantiated.

[Keeping Children Safe in education 2015](#) has introduced a further outcome 'unfounded': *Schools may wish to use the additional definition of 'unfounded' to reflect cases where there is no evidence or proper basis which supports the allegation being made. It might also*

*indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.*

### **Vetting and Barring Checks**

**Keeping Children Safe in Education 2015**, paragraph 52 sets out the required checks:

*For most appointments, an enhanced DBS certificate, which includes barred list information, will be required as the majority of staff will be engaging in regulated activity. In summary, a person will be considered to be engaging in regulated activity if as a result of their work:*

- *they will be responsible, on a regular basis in a school or college, for teaching, training instructing, caring for or supervising children;*
- *or will carry out paid, or unsupervised unpaid, work regularly in a school or college where that work provides an opportunity for contact with children;*
- *engage in intimate or personal care or overnight activity, even if this happens only once.*

### **Checks on Volunteers**

Although many schools and authorities have been doing this for some time, the expectation of vetting checks for volunteers has been clarified: volunteers may have Enhanced checks, but not barred list checks.

Paragraph 53 says that for staff who have an “opportunity for regular contact with children who are not engaging in regulated activity, an enhanced DBS certificate, which does not include a barred list check, will be appropriate.”

Paragraph 54 says ‘In a school or college, a supervised volunteer who regularly teaches or looks after children is not in regulated activity.’

### **DBS Update Service**

Joining the DBS Update service allows for vetting checks to have ‘portability’, that is say be taken from one employer to another, as long as the person has registered with the update service at the point the check was received or within 19 days of receiving it.

The revised **Keeping Children Safe in Education 2015** says:

*Before using the Update Service schools or colleges must*

- obtain consent from the applicant to do so;*
- confirm the certificate matches the individual’s identity; and*
- examine the original certificate to ensure that it is for the appropriate workforce and level of check, e.g. enhanced certificate/enhanced including barred list information.*

### **Transfer of child protection files**

CP files must be transferred ‘as soon as possible’, but now the following guidance is included: ‘ensuring secure transit and confirmation of receipt should be obtained.’

### **Individual staff may make a direct referral to social services**

Whilst the previous version of Keeping Children Safe in Education said that ‘anybody can make a referral’, the new guidance says, “*In exceptional circumstances, such as in emergency or a genuine concern that appropriate action has not been taken, staff members can speak directly to children’s social care.*”

### Specific safeguarding issues –relevant to schools and colleges

Expert and professional organisations are best placed to provide up-to-date guidance and practical support on specific safeguarding issues. For example information for schools and colleges can be found on the [TES website](#) and [NSPCC website](#). Schools and colleges can also access broad government guidance on the issues listed below via the [GOV.UK website](#):

- child sexual exploitation (CSE) – and see page 14 of [Keeping Children Safe in Education](#)
- bullying including cyberbullying
- domestic violence
- drugs
- fabricated or induced illness
- faith abuse
- female genital mutilation (FGM) – and see page 14 of [Keeping Children Safe in Education](#)
- forced marriage
- gangs and youth violence
- gender-based violence/violence against women and girls (VAWG)
- mental health
- private fostering
- preventing radicalisation – and see page 15 of [Keeping Children Safe in Education](#)
- sexting
- teenage relationship abuse
- trafficking

### Information Sharing 2015

In March 2015, the government published revised guidance: [Information Sharing 2015](#). Many professionals are wary about sharing information and are concerned about breaching the Data Protection Act. This document is quite clear about sharing information and encourages practitioners to balance the risk of sharing with the risk of not sharing. Everyone working with children must know the signs and symptoms of abuse and understand under what circumstances they are allowed to share information. Lord Laming emphasised that the safety and welfare of children is of paramount importance and highlighted the importance of practitioners feeling confident about when and how information can be legally shared.

## Seven golden rules to sharing information

1. Remember that the Data Protection Act 1998 and human rights law are not barriers to justified information sharing, but provide a framework to ensure that personal information about living individuals is shared appropriately.
2. Be open and honest with the individual (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
3. Seek advice from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
4. Share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be certain of the basis upon which you are doing so. Where you have consent, be mindful that an individual might not expect information to be shared.
5. Consider safety and well-being: Base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
6. Necessary, proportionate, relevant, adequate, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely (see principles).
7. Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

## What to do if you're worried a child is being abused 2015

'[What to do if you're worried a child is being abused 2015](#)' has been rewritten since the previous edition. This non-statutory guidance is aimed at anyone whose work brings them into contact with children and families, including those who work in early years, social care, health, education (including schools), the police and adult services.

People working with children should be guided by these four principles:

- children have a right to be safe and should be protected from all forms of abuse and neglect;
- safeguarding children is everyone's responsibility;
- it is better to help children as early as possible, before issues escalate and become more damaging; and
- children and families are best supported and protected when there is a co-ordinated response from all relevant agencies.

There are four main categories of abuse and neglect and, although there are definitions in [Working Together to Safeguard Children 2015](#), this document sets out some of the warning signs. These signs have been rewritten and I think are now much clearer.

**Step 1** Be alert to signs of abuse and neglect

**Step 2** Questioning behaviours

**Step 3** Ask for help

**Step 4** Refer to children's social care

[What to do if you're worried a child is being abused 2015](#) is a useful document, especially for the non-specialist or as part of the induction process. Whilst it is non-statutory, it would be useful to make this document available in a staff room as part of the safeguarding resources.

## Disqualification by association

[Disqualification under the Childcare Act 2006 & Childcare Disqualification Regulations 2009 - Guidance for all Maintained Schools and Academies](#)

Important Information for all settings where staff provide any care for children up to and including reception age or Later Years Provision where staff are employed to work in childcare provided by the school outside of school hours for children who are above reception age but who have not attained the age of 8.

Please note that this information is intended to support schools in the application of the [DfE Statutory Guidance](#) and does not replace that guidance. It is therefore advised that the [DfE Statutory Guidance](#) is read in full and in conjunction with this document and followed accordingly.

On 26th February 2015 the Department for Education published statutory guidance for maintained schools, academies and free schools in relation to the Childcare (Disqualification) Regulations 2009.

The requirement for checks arise from the Childcare (Disqualification) Regulations 2009, which in turn arose out of the Childcare Act 2006.

**The Regulations prohibit anyone who is disqualified themselves under the Regulations, or who lives in the same household as a disqualified person, from working in relevant settings, including in schools.**

## Changes to [Female Genital Mutilation Act 2003](#) arising from the [Serious Crime Act 2015](#)

On the 3rd May 2015, a number of the amendments to [Female Genital Mutilation Act 2003](#) contained in the [Serious Crime Act 2015](#) came into force.

- The act now covers any UK resident. This now means that the FGM Act can capture offences of FGM committed abroad by or against those who are at the time habitually resident in the UK;
- Anonymity for victims of FGM - the changes prohibit the publication of any information that could lead to identification of the victim.
- A new offence of failing to protect a girl under 16 from the risk of female genital mutilation has been introduced. A person is liable for the offence if they are “responsible” for a girl at the time when an offence is committed. This will cover two types of people, someone who has “parental responsibility” for the girl and has “frequent contact” with her and any adult who has assumed responsibility for caring for the girl in the manner of a parent. This could be for example family members, with whom she was staying during the school holidays.

On the 17th July 2015, Female Genital Mutilation Protection Orders came into force. The Ministry of Justice had wanted this part of the law to be in place in time for the summer holidays as this is the period when vulnerable girls are most at risk of being taken abroad

From October 2015, the new duty for professionals working in the “regulated professions”, to notify the police if they discover that an act of FGM appears to have been carried out on a girl who is under 18 comes into force. Regulated professionals will cover healthcare professionals, teachers and social care workers. A failure to report the discovery in the course of their work could result in a referral to their professional body.

In July 2015 the Government issued [Draft Multi-Agency Statutory Guidance on Female Genital Mutilation for consultation](#).

## Prevent Strategy

### Counter-Terrorism and Security Act 2015

3 specific strategic objectives

- respond to the ideological challenge of terrorism and the threat we face from those who promote it;
- prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support; and
- work with sectors and institutions where there are risks of radicalisation that we need to address.

The original [Prevent](#) strategy was launched in 2007 in response to the 2005 London bombings and was framed as a ‘hearts and minds’ approach to countering al Qa’ida inspired domestic terrorism with a particular focus on theological, youth, women’s and counter radicalisation projects.

The Home Office sees the responsibility of safeguarding vulnerable people from radicalisation as no different from safeguarding them from other forms of harm - [Prevent](#) is more about helping vulnerable individuals to make better choices and take up support, rather than criminalising their behaviour.

The **Channel** part of the **Prevent** strategy is the process through which individuals are identified who might be particularly vulnerable to violent extremism.

**Channel** is an early intervention approach between local authorities, the police, statutory partners and the local community, involving a multi-agency panel designed to safeguard vulnerable individuals at risk of being drawn into extremist or terrorist behaviour.

Schools are identified as one of the key organisations committed to working with other groups such as healthcare providers, faith groups, charities and the wider criminal justice system to counter extremism.

Schools can play a vital role in identifying and working with young people, both boys and girls, who may be at risk and vulnerable to radicalisation and extremism.

### List of other useful links

- [Cornwall & Isles of Scilly Safeguarding Children Board \(CIOSSCB\)](#)
- [South West Safeguarding and Child Protection Group](#)
- [Family Information Service](#)
- [Right to work checks: an employer's guide](#)
- [An Employers' Guide to Right to Work in UK revised May 2015](#)
- [Right to Work Checklist](#) (one of several documents collected in "Employers: illegal working penalties")
- [Checks for staff and volunteers who have lived overseas](#)
- [Changes to Female Genital Mutilation Act 2003 arising from the Serious Crime Act 2015](#)
- [Channel Guidance 2015](#)
- [Protecting children from radicalisation: The Prevent duty 2015](#)
- [Prevent for schools](#)
- [Prevent in a school and college context](#)
- [NAHT The Prevent Programme and the links to developing British Values](#)
- [Chalkface Project - Citizenship](#)
- [Guidance on Promoting British Values](#)
- [A toolkit to help schools contribute to the prevention of violent extremism](#) (see "Radicalisation Guidance" under the paragraph "Schools – what to look out for". Source: Kent Police.)
- [British Values Lesson](#)
- [Teaching approaches that help to build resilience to extremism among young people](#)
- [Learning Together to be Safe](#)