

Keeping Children Safe in Education 2018:

A briefing note on the changes including recommended action points

Introduction

The fifth edition of *Keeping Children Safe in Education 2018* (KCSiE), statutory guidance for schools and colleges, was recently published and will be in force from **3rd September 2018**. Until that time, schools and colleges must continue to strictly observe the guidance in KCSiE 2016.

So what has changed? It is safe to say that KCSiE has been tweaked rather than undergoing any fundamental changes (other than a new Part five – more on this below) and a number of points have been helpfully clarified. We have broken the changes down into the parts of KCSiE and identified relevant paragraphs where this might be helpful.

In preparation for the 3rd September we are in the process of updating the ISBA template Child Protection Policy for the education sector which will incorporate all of the changes. Schools may wish to adopt this although it will need to be adapted to refer to locally agreed inter-agency procedures put in place by the Local Safeguarding Children Board (LSCB). The Policy will be available in a final and ‘tracked’ format which schools may wish to use as a guide to update their own child protection and related policies.

Part one – Safeguarding information for all staff

The emphasis has been changed in some (not all) places to remove the difference between college and school staff. The guidance now refers to “all staff” encompassing both.

There are changes to what staff need to know on induction (paragraph 13); this will include the behaviour policy for the school. All schools are required to have a behaviour policy. If a college chooses to have a behaviour policy it should be provided to staff on induction. From the 3rd September there are changes to the staff induction process, including making it clear to new staff what the safeguarding response is to children who go missing from education. The induction process must also clearly set out the identity of the Designated Safeguarding Lead (DSL) and their deputies rather than simply referring to the role of the DSL. This should in any event be clear from the child protection policy but the emphasis provides a clear approach on who these key individuals are.

Part one also helpfully sets out a list of those children who may benefit from early help and may be in need of safeguarding support (paragraph 18) and further clarification on what staff should do if they have concerns about a child. There is an emphasis that staff should not assume that somebody else will take action and should share information that might be critical in keeping children safe. There is clarification that the DSL or their deputy should always be available to discuss safeguarding concerns; context is important especially where a school or college is a boarding environment.

Part one also includes a reference, which appears to be for the first time, to contextual safeguarding. We spoke about this at our recent child protection update at the ISBA Annual Conference in Brighton in May. This simply means assessing children within their wider environment, including other factors which may be in a child's life that are a threat to their safety or welfare. There is further guidance available on contextual safeguarding at paragraph 52.

Action points for Part one:

1. Update your induction process for staff to include reference to:
 - a. the school behaviour policy
 - b. the safeguarding response to children who go missing from education
 - c. the identities of the DSL and any deputies.
2. Circulate Part one to all staff to ensure they have read it and document you have done so.
3. Update your child protection policy (and any related policies) to clarify the list of children who may benefit from early help and may be in need of safeguarding support.
4. Update your child protection policy to ensure it is clear that staff should not assume that somebody else will take action and share information that might be critical in keeping children safe. It should be clear this is everyone's responsibility.
5. Make it clear in your child protection policy that the DSL or their deputy should always be available to discuss safeguarding concerns; we would advise that you examine this in practice as the governors may wish to look for assurance that this is the case.
6. Ensure all of your policies refer to the latest version of Keeping Children Safe in Education 2018 with effect from 3 September.

Part two – The management of safeguarding

Part two remains focused on the management of safeguarding which is the responsibility of governing bodies, proprietors and management committees.

The new guidance provides clarity on what should be contained within an effective child protection policy, the procedures to be included, the frequency of any review (annually at a minimum) and how it is made available.

It appears clear throughout the guidance that there is an emphasis on the safeguarding response to children who are missing from education, recognising that they are a risk group. This is repeated in Part two.

Part two also contains new guidance that it is ‘good practice’ for schools and colleges to hold more than one emergency contact number for each pupil or student. This is not a legal requirement but as it is good practice we would suggest that schools and colleges, where possible, adopt it.

Part two recognises, with a subtle change of wording, that the appointment of the DSL is often not a decision solely made by the governing body or proprietor. The emphasis will be for the governing body/proprietor to ensure that an appropriate senior member of staff from the school or college leadership team is appointed to the role of DSL.

The sections on multi-agency working and information sharing are yet to be updated to reflect the updated *Working Together to Safeguard Children* guidance.

Part two (as amended) contains greater clarity on peer on peer abuse and clarification on what governing bodies and proprietors should do to ensure their child protection policy is effective in this context (paragraphs 89 and 90).

Finally, under this Part, there is recognition that students with special educational needs and disabilities can be more prone to peer group isolation than other children. To address these challenges, schools and colleges should consider extra pastoral support for children with SEN and disabilities. A section on the use of “reasonable force” in schools and colleges within this context has been included.

Action points for Part two:

1. Update your child protection policy to recognise that children with SEND can be more prone to peer group isolation than other children and consider extra pastoral support for those children.
2. Consider holding more than one emergency contact for each pupil (best practice)
3. Ensure the child protection policy of the school meets the requirements that it is effective, reviewed as a minimum annually and where it is available.
4. Consider training for governors on the changes to Keeping Children Safe in Education.

Part three – Safer recruitment

Part three remains focused on safer recruitment. There is a new section on ‘prohibitions, directions, sanctions and restitutions’ recognising the range of orders which may prevent a person from carrying out teaching work. Reference to NCTL has been amended to refer to the Teaching Regulation Authority (TRA).

There are further changes to the section on employment history and references. There is a wording change on the paragraph where a candidate is not currently employed. The 2016 version of KCSiE (i.e. current) states that in this situation, the school has to check the most recent school, college or local authority at which they were most recently employed. The relevant 2018 paragraph refers to a more general sense of where a candidate is not currently employed that checks should be made of their most recent employer, whether that is a school, college, local authority or *organisation* (our emphasis). This means that a school or college is not required under KCSiE 2018 to check the most recent school or college employer if that was not their most recent post. However, we would recommend that in spite of this wording change, it is best practice for schools and colleges to check the most recent employer **as well as** checking the most recent 'education' employer (school, college or local authority) if their most recent employer was not in the education sector, to verify the period of employment and reasons for leaving. We are in contact with the DfE to try and obtain clarity on this point.

There is further emphasis within this section that any internal candidates also require references before interview and that these should be from a senior person *with appropriate authority* (not simply a colleague). There is helpful emphasis and clarity that where electronic references are received, employers should ensure they originate from a legitimate source. This should, of course, be documented.

Some schools already record additional information on the Single Central Record (SCR). Paragraph 141 clarifies that whilst there is a statutory duty to include certain information on the SCR (those listed within KCSiE) schools may wish to record additional information on the SCR which they deem relevant, for example, safer recruitment training dates, if they wish to do so.

Paragraph 154 of the new guidance emphasises that for existing staff, the legal duty to refer (to the DBS) applies equally in circumstances where an individual is deployed to another area of work which is not regulated activity.

There is a new paragraph on alternative provision. Where a school places a pupil with an alternative provision provider, the school continues to be responsible for the safeguarding of that pupil and should be satisfied that the provider meets the needs of the pupil and that the appropriate safeguarding checks have been carried out on the individuals working at the establishment. This remains the school's responsibility.

Action points for Part three:

1. Change any reference to NCTL to TRA
2. Update the recruitment policy and processes to reflect the importance of checking that any electronic references received are from a legitimate source.
3. Ensure your processes reflect the requirement that any internal candidates provide references before interview (in line with external candidates) and that any such reference is from a senior person with appropriate authority.

Part four – Allegations of abuse made against teachers and other staff

Part four of KCSiE 2018 still deals with allegations of abuse made against teachers and other staff. The three changes worth noting are:

1. A new definition of “unfounded” when determining the outcome of allegation investigations. This is in addition to the existing outcomes of “substantiated”, “malicious”, “false” and “unsubstantiated”. Unfounded is designed to reflect cases where there is no evidence or proper basis which supports the allegation being made and that there may be evidence which supports the contrary position. A simple example of this would be, an allegation that a teacher was in a certain place at a certain time, and there is evidence to show the teacher was in fact elsewhere.
2. There has been (in our view) a significant change of wording when considering the threshold for allegations management and when Part four will apply. The change of wording (at para 184) is in relation to where a person has ‘behaved towards a child or children in a way that indicates he or she *may* pose a risk of harm to children’. The word ‘*may*’ in the 2018 version has changed from the word ‘*would*’ in the previous version of the guidance. In our view this lowers the threshold and is a welcome change.
3. An emphasis that schools and sixth form colleges must consider a referral to the TRA where appropriate.

The remainder of Part four remains largely unchanged.

Action points for Part four:

1. Update the school or college allegations of abuse procedure if it refers to the outcomes to ensure it now includes ‘unfounded’.
2. Update your allegations of abuse procedure to ensure that the threshold wording is corrected from a ‘would’ to a ‘may’.

***New Part five – Child on child sexual violence and sexual harassment**

This is a new part to KCSiE and is focused on managing reports of child on child sexual violence and sexual harassment. It refers to the departmental advice which was issued at the end of last year; this Part should be read in conjunction with that advice.

Part five includes guidance on how to respond to reports of sexual violence and sexual harassment including effective safeguarding practice and principles for schools and colleges to consider in their decision making process, how to assess risk, what to consider and processes to be followed, including referrals to children’s social care and the police.

Action points for Part five:

1. Update your child protection policy and any related policies to ensure they refer to Part five in relation to child on child sexual violence and sexual harassment including detail on how to respond.
2. We would recommend that school and college leaders and those staff who work directly with children should read the new Part five.

Annexes

Annex A has been redesigned and contains additional information (including page references) about specific forms of abuse and safeguarding issues. It also contains a fairly lengthy list of additional advice and support which is available.

Annex B still contains detail on the definition of the role of DSL. This is fairly unaltered although it does set out clearly the importance of the DSL understanding the unique risks associated with online safety and that the DSL must be confident that they have the relevant knowledge and up to date capability required to keep children safe whilst they are online at school or college. It also emphasises that the DSL must be able to recognise the additional risks that children with SEN and disabilities face online, for example, online bullying, grooming and radicalisation, and they must be confident that they have the capability to support these pupils.

Annex C remains focused on online safety including a new section on useful resources for opportunities to teach safeguarding and resources which are available.

Annex E focuses again on host families including home stays during exchange visits and it emphasises that where a school or college arranges a home stay or “exchange” it should consider what intelligence and/or information will best inform its assessment of the suitability of an adult and the families who will be responsible for the visiting child during the stay.

Action points for the Annexes:

1. School and college leaders and those staff who work directly with children must read Annex A.
2. Consider if the DSL (and any deputies) are confident that they have the relevant knowledge as set out above and that they are confident of supporting vulnerable pupils such as those with special educational needs and disabilities with regard to online issues.

Practical Steps

In preparation for the 3rd September 2018, we would advise schools and colleges to take the practical steps identified as '**Action points**' under each section as set out above. :

Schools may wish to inform governing bodies/proprietors of the changes and how the school or college is ensuring the changes are implemented.

As mentioned at the outset, in preparation for the 3rd September, we are in the process of updating the ISBA template Child Protection Policy which will incorporate all of the above changes. Schools may wish to adopt this Policy, which will need to be adapted to refer to locally agreed inter-agency procedures put in place by the Local Safeguarding Children Board (LSCB). We will also update other ISBA policies where KCSiE 2018 is relevant.

If a school or college would like our support on implementing the changes including any review, training or a sense check, please get in touch.

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