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Update to Keeping Children Safe In Education (July 2015)

Just in time for the summer holidays, the Department for Education released its updated edition of Keeping Children Safe in Education ("KCSIE"). What are the changes and what does this mean for schools?

KCSIE applies to all schools, whether maintained or independent (including academies and free schools), and colleges including further education colleges and sixth form colleges. The current July edition replaces the March 2015 edition. The key changes are to Part One of KCSIE – Safeguarding information for all staff. Governing Bodies have an obligation to ensure that all staff have read at least Part One of KCSIE. Accordingly, Part One of the revised KCSIE should be publicised across the school or college and all staff's attention brought to the requirement for them to have read it.

A quick reminder that KCSIE is statutory guidance and therefore schools and colleges must have regard to it when carrying out their duties to safeguard and promote the welfare of children. 'Have regard' means that the guidance must be taken into account and any decision to depart from it must be justified. Please note however that the words '**should**' and '**must**' are regularly used in KCSIE. Where the word 'must' is used this indicates a legal obligation.

Overview - So what's new?

The key new areas are as follows:

- Specific safeguarding issues;
- Children missing from education;
- Female genital mutilation ("FGM") and the mandatory reporting duty;
- The Prevent duty.

The remainder of KCSIE has not changed substantively so Part Two – The management of safeguarding, Part Three – Safer recruitment, and Part Four – Allegations of abuse made against teachers and other staff do not have significant changes.

The detail…

Specific safeguarding issues – page 12

There is an updated list of specific safeguarding issues, from trafficking, gangs and youth violence, to sexting. In the online version of KCSIE, (https://www.gov.uk/government/publications/keeping-children-safe-in-education--2) you can click on each issue and you will be taken to a website giving further information.

Children missing from education – page 13

There is more detail on children missing from education highlighting that it could be a sign of neglect, safeguarding concerns, travel to a conflict zone, or FGM and forced marriage.

Schools should put in place appropriate safeguarding policies and procedures and responses for children who are missing from education, particularly on repeat occasions. All staff should be alert to signs to look for and individual triggers to be aware of when considering the risks of potential safeguarding concerns.

KCSIE highlights the Education (Pupil Registration) (England) Regulations 2006 stating that all schools are required to have an admission register and, with the exception of schools where all pupils are boarders, an attendance register. All pupils must be placed on both registers.

Schools have the following legal obligations:

- All schools **must** inform their local authority of any pupil who is going to be deleted from the admission register in the circumstances described on page 13. This should be done as soon as the grounds for deletion from the admission register are met.
- All schools **must** inform the local authority of any pupil who fails to attend school regularly or has been absent without the school's permission for a continuous period of 10 school days or more.

Female Genital Mutilation (FGM) – page 14

KCSIE includes further detail on the definition of FGM and steps that staff are obliged to take. It refers schools to Chapter 9 of the Multi-Agency Practice Guidelines (https://www.gov.uk/government/publications/female-genital-mutilation-guidelines) which gives details of the warning signs. If a member of staff has a concern, they should activate local safeguarding procedures.

From October 2015, the **mandatory reporting duty** commences. Where a teacher discovers that an act of FGM appears to have been carried out on a girl who is under 18, there will be a statutory duty upon that individual to report it to the police. This mandatory duty applies to teachers, social workers and healthcare professionals.

For the purposes of the mandatory reporting duty, a teacher is someone who undertakes teaching work as follows:

- planning and preparing lessons and courses for pupils;
- delivering lessons to pupils;
- assessing the development, progress and attainment of pupils; and
- reporting on the development, progress and attainment or pupils.

Delivering includes delivering lessons through distance learning or computer aided techniques. Please note however that these activities are not teaching work if the person carrying out the activity does so (other than for the purposes of induction) subject to the direction and supervision of a qualified teacher or other person nominated by the Head teacher to provide such direction. The mandatory reporting duty will not therefore apply to supervised teaching assistants.

KCSIE states that 'Those failing to report such cases will face disciplinary sanctions'. It does not include detail as to the nature of the 'disciplinary sanctions', whether they are for the school to undertake, or the National College for Teaching and Leadership ("NCTL"), or both. Presumably, if a teacher fails to comply with their duty to report this should be dealt with locally by the school as a disciplinary issue and schools should then consider whether a referral to the NCTL is necessary. **Schools may therefore wish to consider whether it is necessary to update their Staff Behaviour Policy and Disciplinary Policy**.

KCSIE observes that it will be rare for teachers to see visual evidence of FGM and they should not be examining pupils. Unless a teacher has a good reason not to, they should still consider and discuss any such case with the school's Designated Safeguarding Lead and involve children's social care as appropriate.

The Prevent Duty – page 15

Broadly speaking, KCSIE echoes earlier guidance on the Prevent duty which came into force from 1 July 2015. It is anticipated that the duty will come into force in respect of sixth form colleges and FE colleges early in the autumn. We have produced a guidance note on the Prevent duty which can be accessed here https://www.hcrlaw.com/blog/prevent-duty-guidance/

KCSIE states that protecting children from the risk of radicalisation should be seen as part of schools' wider safeguarding duties. Staff should be alert to changes in children's behaviour which could indicate that they may be in need of help or protection.

It brings together sources for schools to help in complying with this duty. It also highlights the Channel Programme, which provides support at an early stage to people who are identified as vulnerable to being drawn into terrorism. KCSIE states that school staff should understand when it is appropriate to make a referral to the Channel programme. (https://www.gov.uk/government/publications/channel-guidance)

KCSIE reiterates the four general themes in terms of Prevent duty requirements on schools:

1. Risk assessment - Schools are expected to assess the risk of children being drawn into terrorism including support for extremist ideas that are part of terrorist ideology. Schools should have clear procedures in place for protecting children at risk of radicalisation. These procedures may be set out in existing safeguarding polices. It is not necessary for schools to have a separate Prevent Duty Policy.
2. Working in partnership - Governing bodies and proprietors of schools should ensure that their safeguarding arrangements take into account the policies and procedures of the Local Safeguarding Children Boards.
3. Staff training - The Prevent guidance highlights the importance of staff training to equip staff to identify children at risk of being drawn into terrorism. Schools are best placed to gauge the level of training but as a minimum the designated safeguarding lead should undertake Prevent awareness training and be able to provide advice and support to other members of staff.
4. IT policies - Schools must ensure that children are safe from terrorist and extremist material when accessing the internet in schools. Suitable filtering should be in place and it is also important that schools teach pupils about online safety more generally.

Practical Steps

1. Ensure all staff read the new Part One of KCSIE and keep a record of how this is implemented, for example, hand out physical copies and ask staff to sign a document indicating that they have read it. Alternatively, email a link to the new version to all staff and ask staff to indicate that they have read Part One of KCSIE electronically.
2. Review all school policies to see whether amendment is required in light of the new obligations. This could include:
    a Reviewing the Safeguarding Policy to update the list of specific safeguarding issues.
    b Reviewing and amending the Missing Child Policy highlighting the school's legal obligations and wider signs of safeguarding concerns.
    c Reviewing and amending the IT Policy to ensure children are safe when online at the school.
    d Amending relevant policies to refer to the FGM mandatory reporting duty and considering whether the mandatory reporting obligations need to be included in the Staff Behaviour Policy and Disciplinary Policy.
    e Considering whether the school wishes to create a standalone Prevent Duty Policy or to incorporate the Prevent duty obligations into existing polices.
3. Undertake a Prevent and Safeguarding self-assessment plan. (http://schools.oxfordshire.gov.uk/cms/sites/schools/files/folders/folders/documents/safeguarding/Educationtoolkit.pdf)

4. Put in place staff training on their new obligations.
5. Consider whether the academic syllabus needs to be updated to build resilience in pupils to resist radicalisation.
6. Review arrangements for visitors and guest speakers attending the school to ensure that appropriate due diligence checks are made as part of the Prevent duty. Independent schools should note the new Independent Schools Inspectorate Handbook for the Inspection of Schools dated September 2015 states that this is likely to mean in practice that checks on visiting speakers should now be included on the Single Central Register (paragraph 278).

This note is a general summary of the law. For legal advice tailored to your specific circumstances please contact us directly.

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