Department for Education

Keeping Children Safe

during Community Activities, After-School Clubs and Tuition

Non-statutory guidance for providers running out-of-school settings

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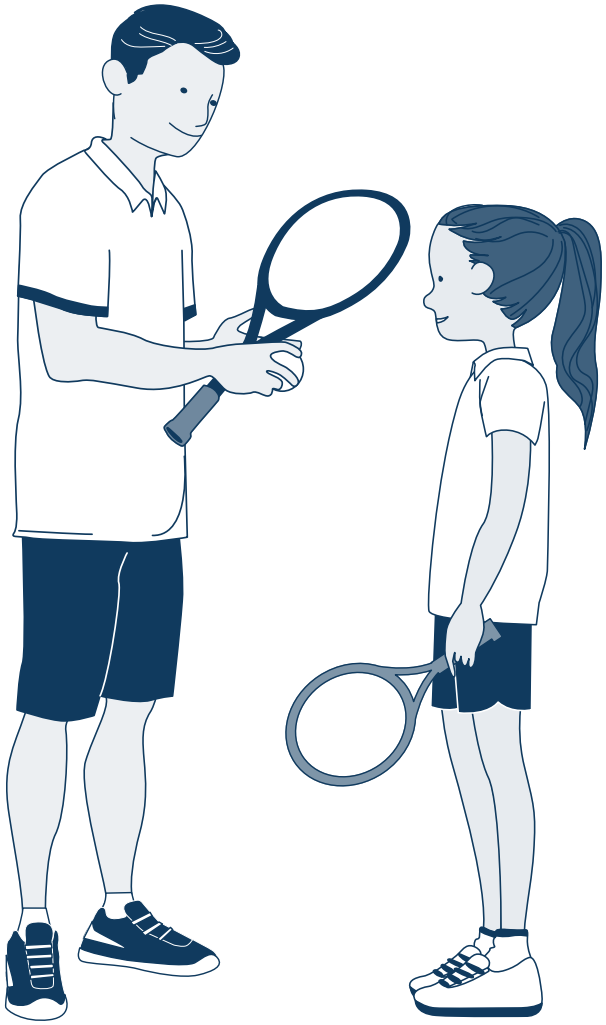
Summary

This is non-statutory guidance from the Department for Education (DfE). It aims to:

- help providers of out-of-school settings (OOSS) understand best practice for creating a safe environment for children[1] in their care
- give parents and carers confidence that their child is in a safe activity or learning environment.

Safeguarding, and promoting the welfare of children, is everyone's responsibility. "Safeguarding" 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 children to be at risk of harm



Who is this guidance for?

The guidance is for organisations or individuals who provide community activities, tuition or after-school clubs for children, also known as out-of-school-settings (OOSS) providers, as well as their staff and volunteers.

Following this guidance is voluntary for settings (aside for the legal requirements which are made clear throughout the guidance) – DfE will not monitor or assess whether providers are implementing the practices set out. By adopting these practices, you will be taking reasonable steps to ensure the safety of children using your services and attending your settings.

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

What are Out-of-School Settings (OOSS)?

OOSS are organisations 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]
- education settings providing alternative provision
- 16-19 academies
- providers caring for children that are registered with Ofsted or a chidminder agency[4]

These settings generally provide tuition, training, instruction or activities outside normal school hours (for example, evenings, weekends, school holidays), although some settings are run part-time during school hours to help meet the needs of those in home education. OOSS should not, however, be operating full-time[5] (preventing a child attending a lawfully operating school); and would probably be regarded as operating illegally if it also met the remaining requirements for registration as an independent school. In such cases, the providers would risk a criminal prosecution for operating an unregistered school.

These settings can occur in many kinds of venue, from a person's home to much larger and more formal places such as community and youth centres, sports clubs, and places of worship. Fees may or may not be charged, and some settings may operate on a commercial basis.

The following are typical types of settings, though this is not meant to be a complete list:

- **Tuition or learning centres**[6] (which may be used to support mainstream, or home education) for example, in term time or holiday courses in key stage 1-4 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 ballet classes, gymnastic training, sports tuition, instrumental music tuition, martial arts training, drama classes.
- **Uniformed youth organisations**, for example the Scouts and Guides.
- **Open-access youth providers**, for example centre-based and detached youth work.
- **Supplementary schools or what are sometimes called complementary schools**, for example, those offering support or education in addition to the mainstream, or core learning, and 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, such as Jewish yeshivas and chedarim, Muslim madrassahs, Hindu settings, Sikh settings, Christian Sunday schools.

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 in the further education sector.

4 Most providers caring for children under eight 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

5 Full-time is not defined in law. Further information on institutions that must register at schools is contained in **the department's guidance on registration**.

6 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.

As a provider, **you and your staff and volunteers have a duty of care[7] 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.** As detailed in DfE statutory guidance **'Working Together to Safeguard Children'**, no single practitioner can have a full picture of a child's needs and circumstances, so everyone who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action.

We recognise that characteristics of settings can vary, including the activities and learning they offer, so the steps you take to reduce the risk of harm to children in your setting will differ depending on its specific characteristics (for example, size, type of activity or tuition being offered, physical location, hours of operation). However, taking appropriate steps to reduce risk will reassure parents that their children will be safe in your care.

Home education: Parents (including guardians and foster carers), who have chosen to home-educate are not out-of-school settings providers for the purpose of this guidance. They may wish to refer instead to the **DfE departmental guidance for parents on elective home education**. It sets out their responsibilities and how these fit with the local authority's role.

About this guidance

The guidance has been developed in consultation with representatives from organisations linked to out-of-school settings, including individuals with a good working knowledge of the largest religious faiths in the UK (Christianity, Hinduism, Islam, Judaism and Sikhism); organisations representing youth and sports clubs; Ofsted; and local authorities. It has been created with reference to policies and guidelines in England, but its principles may help providers elsewhere in the UK.

Many accreditation schemes, quality marks and codes exist for specific types of setting, such as the **Child Protection in Sport Unit's Standards** for safeguarding and protecting children in sport. 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. While many accreditation schemes place safeguarding requirements on providers as a condition of membership, having an accreditation does not guarantee that your setting is safe. Individual accreditation schemes should be able to confirm whether their scheme aligns with our guidance.

Settings that operate as charities should also refer to the Charity Commission guidance **Safeguarding and protecting people for charities and trustees.**

All settings, without exception, should also refer to the Department for Education's current **guidance on protective measures** for holiday and after-school clubs, and other out-of-school settings during the coronavirus (COVID-19) outbreak. This is national guidance to support providers and advise on practical steps you can take to minimise the risk to children, staff and parents who attend your setting by reducing the risk of infection and transmission of the coronavirus (COVID-19).

How the guidance can help you as a provider

The guidance will help providers understand how they can run safe settings to ensure the welfare of the children attending them. **Following the guidance is not mandatory (except for the existing legal requirements specified)**. However, all the actions we outline are good practice and should be supported by effective leadership and training. We strongly encourage you to put in place robust policies that will help you meet your duty of care towards all children attending your setting and to review them regularly to ensure the children in your care are kept safe from all forms of harm.

The guidance covers safeguarding best practice in 4 sections:

- Health and safety.
- Safeguarding and child protection.
- Suitability of staff and volunteers.
- Governance.

7 In English law, a person may owe a duty of care to another. The exact nature of the duty can vary but it is generally a duty to take steps to prevent the other person from suffering foreseeable harm. A duty of care can be created by legislation or can exist because of a relationship or a set of circumstances. If you are unsure about your duty of care, you may wish to seek legal advice.

You should ensure that parents and carers know about and are happy with your setting's arrangements and environment before they decide their child will attend. So, each section contains examples of questions that parents and carers might ask you, and the types of response you should be able to give to reassure them that their child will be safe in your care.

How to use this guidance

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. You may also wish to get legal advice on this.

The definition of an out-of-school setting covers various types of provision, so some sections of the guidance may be more relevant to you than others. Please see the checklist on page 8 of the guidance. It details the basic requirements you should have in place regardless of the type or size of provision. Further checklists at the start of each section also detail the requirements and subheadings in the guidance that different types of provider should read.

By reading the subheadings relevant to your setting and implementing the suggested actions, you are taking the first steps to safeguarding the children in your setting from harm. However, effective safeguarding also requires a culture of vigilance around children's welfare, embedded through effective leadership and training. This means that you should ensure that all staff and volunteers understand and comply with the safeguarding arrangements you put in place and that you should review your policies, procedures and training on an ongoing basis.

In deciding which requirements are most relevant, you should identify whether you are a:

- **large provider** (5 or more volunteers or paid staff members)[8]
- **small provider** (4 or fewer volunteers or paid staff members)[9]
- **volunteer, paid employee or lone provider.**

Some sector-specific guidance documents are also available about safeguarding. You may find these to be helpful resources, depending on what you are offering. For example:

- **charity** – alongside referring to the Charity Commission's safeguarding guidance, you may wish to review specific resources provided by the National Council for Voluntary Organisations (NCVO) on safeguarding, as well as any other relevant guidance below (such as the faith institution guidance for faith charities, or the sports provider guidance for amateur sport charities).
- **sports provide**r – you may wish to review the NSPCC Child Protection Sport Unit's specific guidance for the sector and access free resources;
- **martial arts provider**– you may wish to review Sport England's Safeguarding Code for Martial Arts, which allows clubs to demonstrate their commitment to the highest standards of child protection;
- **faith institution** – you may wish to review specific resources provided by the NSPCC and Strengthening Faith Institutions on safeguarding in faith communities

8 The specifications for large and small providers have primarily been decided based on existing precedent in health and safety legislation which states that if you have fewer than five employees you do not need to have a written health and safety risk assessment.

9 If you engage fewer than five staff members but your setting is operating for several hours on multiple days of the week, you may wish to follow the best practice suggested for 'large providers' throughout this guidance.

Basic safeguarding requirements for all providers

Every provider …

Health and safety

- [ ] must consider the suitability and safety of the setting for employees and take steps to reduce any risks identified
- [ ] should have first aid training and/or a first aid kit to hand as well as awareness of what to do in an emergency (for example, call 999 if a child is having an asthma attack)
- [ ] must have a fire safety and evacuation plan
- [ ] should have more than one emergency contact number for each child, where reasonably possible, and know of any medical concerns or allergies

Safeguarding and child protection

- [ ] must have a safeguarding and child protection policy in place, including procedures for dealing with safeguarding incidents which are communicated to and understood by all staff members
- [ ] should have awareness of and training on the specific safeguarding issues that can put children at risk of harm (for example, abuse and neglect, peer-on-peer abuse, extremism and radicalisation)
- [ ] should have clear procedures on what to do if they have concerns about a staff member, volunteer or other adult who may pose a risk of harm to children
- [ ] should appoint a designated safeguarding lead (DSL), who has undertaken safeguarding and child protection training
- [ ] should provide parents with a named individual (such as the DSL) so they can raise safeguarding concerns, or if you are a lone provider provide the contact details of your local authority's children's services or the NSPCC helpline number
- [ ] should have contact details for the DSL and the local authority designated officer (LADO) and know the local referral route into children's social care.

Suitability of staff and volunteers

- [ ] should ensure staff and volunteers have had relevant pre-employment checks (e.g. DBS check, verification of identity) or, if you are a volunteer or self-employed, checked if the organisation contracting your services can apply for a DBS check on your behalf.
- [ ] should have regular performance reviews in place to check the suitability and training requirements of staff and volunteers after their appointment

Governance

- [ ] should have a clear complaints procedure
- [ ] should have an effective whistleblowing policy

Remember: These basic safeguarding practices should be supported by effective leadership, training and a culture of vigilance around children's welfare in your setting.

Section 1: Health and Safety

Basic Requirements

Remember: The practices that you put in place should be regularly reviewed to ensure the children in your setting are safe. For example, if you change venue you should carry out a new risk assessment and ensure all staff members are aware of what steps to take to reduce any risks identified

I am a large provider (5 or more staff)

You should read the following subheadings:

- Duty of care
- Health and safety policy
- Fire safety
- Parental Consent and Attendance Registers

This is to ensure you have:

- ☐ a written health and safety policy, including a risk assessment section
- ☐ an appointed person and/or at least one staff member who has first aid training
- ☐ a fire safety and evacuation plan
- ☐ trained all staff members on health and safety
- ☐ created a GDPR-compliant registration form for the children in your care, including essential contact information and medical details
- ☐ taken a register at the start of each session.

I am a small provider (4 or fewer staff)

You should read the following subheadings:

- Duty of care
- Health and safety policy
- Fire safety
- Parental Consent and Attendance Registers

This is to ensure you have:

- ☐ considered health and safety and taken steps to reduce risks
- ☐ an appointed person and/or at least one staff member who has first aid training
- ☐ a fire safety and evacuation plan
- ☐ trained all staff members on health and safety
- ☐ more than one emergency contact number for each child (where possible) and knowledge of any medical concerns (held in compliance with GDPR)
- ☐ taken a register at the start of each session.

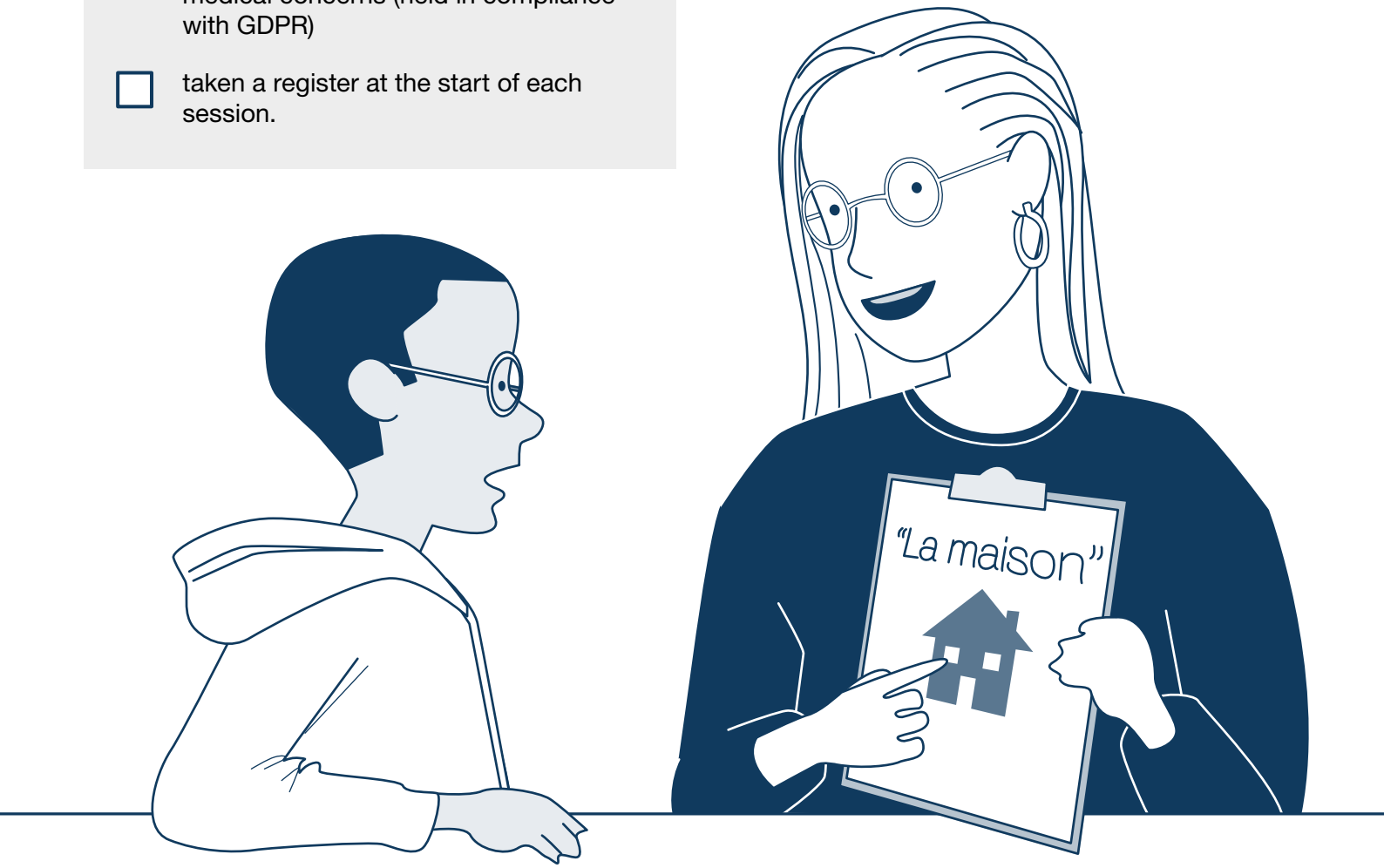
I am a volunteer, a paid employee, or lone provider

You should read the following subheadings:

- Duty of care
- Health and safety policy
- Fire safety
- Parental Consent and Attendance Registers

This is to ensure you have:

- ☐ considered health and safety and taken steps to reduce risks
- ☐ first aid training, or at a minimum a first aid kit and awareness of what to do in an emergency
- ☐ a fire safety and evacuation plan
- ☐ more than one emergency contact number for each child (where possible) and knowledge of any medical concerns (held in compliance with GDPR)
- ☐ taken a register at the start of each session.



Duty of care

As a provider, you are likely to have a legal duty of care to try to ensure the environment is safe for people who visit or attend.[10] 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 are responsible for health and safety regardless of your setting, whether it is a classroom, a sports pitch, a tuition centre, your own home[11], etc. It might be that new hazards emerge after you have done your initial risk assessment that you will need to lessen as well, such as surfaces that become flooded or slippery in poor weather or building and maintenance taking place in or around your site which could be dangerous for children.

As part of this, you should consider the safety and needs of all people within the setting, but especially adults and children with special educational needs (SEN) or disabilities who use the site. For example, you may need to think about their specific needs when considering your evacuation route in the event of a fire.

You should also consider how you can manage these risks while ensuring children are still able to gain the benefits from the tuition, training, instruction, or activities. The Health and Safety Executive has written a **statement** on striking a balance in play and leisure.

Health and safety policy

You should have considered health and safety and taken reasonable steps to reduce risks regardless of the type and size of your setting. This should:

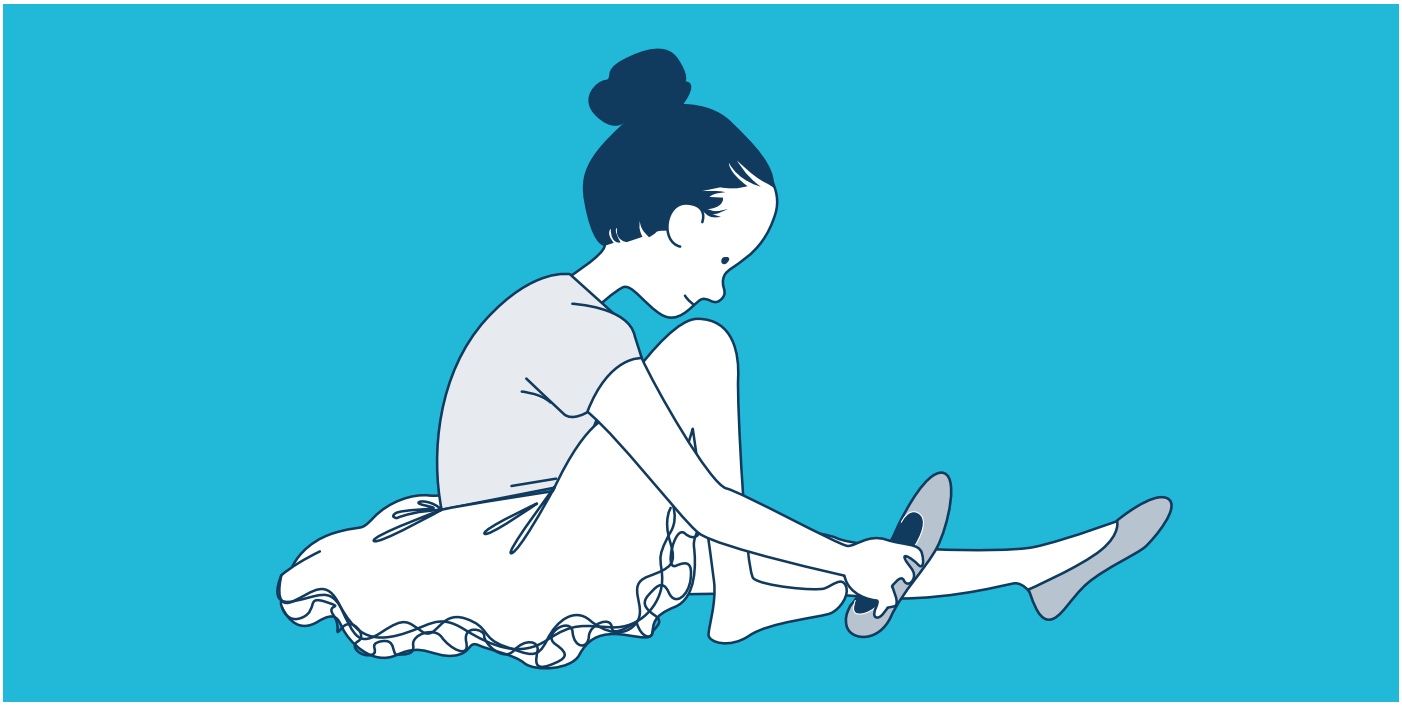
- assess the risks to any staff, volunteers, children and others involved in the setting's activities. This should help to identify the health and safety measures that are necessary
- ensure that facilities are adequate and appropriate for the activity (e.g. access to sanitary facilities and drinking water)
- include a site risk assessment of the venue (access, lighting, fire), surrounding area, and equipment. For example, if you are renting a community hall, the owners or voluntary management committee should check they have complied with health and safety law as set out by the **Health and Safety Executive's standards**
- introduce measures to manage those risks (risk management)
- ensure that adequate and appropriate arrangements and facilities for providing **first aid** are in place and the location of the first-aid kit is clearly displayed
- tell any employees about the risks, and clearly designate and define measures to be taken to manage the risks
- ensure that relevant training is given to employees and volunteers on health and safety, and
- include appropriate insurance cover, such as employers' liability insurance. If you are unsure which insurance is relevant, contact your local **Citizens Advice Bureau**[12]

10 The Occupier's Liability Act 1957 places a duty of care on occupiers of premises in relation to visitors; this also relates to persons obtaining access to premises for recreational or educational purposes.

11 Where you are renting premises or visiting someone else's home (e.g. when tutoring), the owner is likely to have health and safety and fire safety duties. For example, the owner should keep it in good repair, and have appropriate fire precautions in place. As the user, you will be responsible for managing risks arising from your own activities when you have control of premises or equipment on the premises.

12 See the Employers' Liability (Compulsory Insurance) Act 1969, which requires employers to insure against their liability for personal injury to their employees.

If you have fewer than five employees or volunteers, you do not have to write down your health and safety policy, but you may wish to record any significant findings.



Example Scenario: Creating a Health and Safety Policy

A self-employed dance teacher who teaches ballet to children aged 5-12 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, location of the first aid box and the public liability insurance statement. The dance teacher thinks that because the owners of the hall have provided her with detailed information, she does not need to write her own health and safety policy.

Our Advice

Even though the owners of the hall have provided information to show that they are 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, dance shoes should always be worn inside the hall and pupils should 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, proper footwear and no jewellery to be worn).

Fire safety

A fire safety management policy and evacuation plan must form part of your health-and-safety policy. 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.

Under the order, 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 or the occupier (such as a self-employed person or voluntary organisation). If a number of people could be classed as the 'responsible person', you must work together to meet the requirements.

The order applies to virtually all premises and covers nearly every type of building, structure and open space. This includes community halls, places of worship and other community premises; schools and sports centres; tents and marquees; and the shared areas of properties several households live in.

The order does not apply to people's private homes, including individual flats in a block or house unless you have paying guests (for example, if operating bed and breakfast accommodation from a residence). However, it is good practice to have an evacuation plan if, for example, you are a private tutor working from your own home or another private residence.

Specific guidance is available depending on the type of premises where you are hosting your activity or service. For example, if you are running a club in a community centre where more than 300 people could gather, you may wish to refer to **'Fire safety risk assessment: large places of assembly'**. If you are running an outdoor sporting event, you may find the guidance on **'Fire safety risk assessment: open-air events and venues'** useful.

If you are the responsible person, you must ensure you:

- carry out a fire-risk assessment (see **government guidance** on what an assessment should cover);
- consider who may be especially at risk
- reduce the risk from fire as much as reasonably possible and provide general fire precautions to deal with any possible risk that is left
- take further measures to make sure there is protection if flammable or explosive materials are used or stored
- 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);
- record your fire-risk assessment findings if you have five 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 or you do not feel able to do the fire risk assessment yourself, you can seek help, such as from a professional fire risk assessor. The National Fire Chiefs Council has **published guidance** to help responsible persons choose a competent fire risk assessor.

You must make sure your fire-risk assessment is up to date. You will 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 eight 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 a group that can be considered especially at risk when there is a fire. Therefore, he should take reasonable steps to reduce the risk and have a clear evacuation route. To reduce the risk, he might want to avoid burning candles while he is tutoring. To ensure a quick evacuation in the event of fire, he should test his smoke alarms, identify escape routes (for example, through the kitchen to the back door) and make sure escape routes are accessible (for example, keys should be beside the door so it can be quickly opened if locked).

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, such as parental/carer contact details and whether the child has any particular needs, such as Special Educational Needs, regular medication or allergies. Please note such forms will normally contain data that is subject to the General Data Protection Regulation (GDPR) and Data Protection Act 2018. Further information on the GDPR is included in the 'Other considerations' section of the guidance.

When enrolling a child in your setting, consider the following points:

- Take note of more than one emergency contact number per child, where reasonably possible, and ensure you are aware of any health conditions or medical requirements. You may also want to take note of the school the child attends. To collect this information, you may want to create a consent form that parents and carers can complete for their child. The NSPCC provides an **example template** which you may find helpful.
- If a child has any particular needs, make sure you discuss with parents and carers how you will address these.
- Request 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, you might consider encouraging parents and carers to meet with you either prior to or during a session so they are reassured their child will be safe in your care. Visiting parents and carers should not be 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.

Taking a register of attendance is also considered good practice so you know how many and which children are present on a given day.

If you discover that a child is missing, you should alert the designated safeguarding lead (see Section 2) or a senior staff member. The designated safeguarding lead or senior staff member should calmly search inside and outside the building. If there is no sign of the child then you should contact the police immediately and also inform their parents. You should then wait for the police to arrive and follow their instructions. The designated safeguarding lead or senior staff member should continue to search while waiting for the police to arrive.

If you discover that a child is missing and are a lone provider or staff member who is 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 and the police and stay with the other children until help arrives.

Legal Requirements and Statutory Guidance

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

- **Health and Safety at Work etc. Act 1974** – is the primary piece of legislation covering workplace health and safety in Great Britain. 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** – is designed to provide a minimum fire safety standard in England and Wales. It applies to those who own, manage or operate a business, and applies to almost all buildings, places and structures, other than individual private homes, including individual flats in a block (with the exception of shared areas). It 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. Whether a person is an 'occupier' depends on the degree of control they have over the premises, so can include tenants, employees or agents.
- **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** – provides the framework for all food legislation in England, Wales and Scotland, and covers the responsibilities that all types of food business 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.

Questions a parent or carer may ask you

Note – some of these questions will not be relevant for all providers. For example, if you are providing piano lessons for children from your home, we do not expect you to have a comprehensive, written health and safety policy. We would, however, expect you to have assessed the health and safety risks and keep a first-aid kit in your home, and know what to do in case of emergency.

Q: May I have a copy of your health and safety policy?

A: You should be able to provide or show parents a health and safety policy on request or, if you have fewer than five staff members or volunteers, you should at a minimum be able to explain to parents the reasonable steps you have taken to reduce the health and safety risks in your setting. A good policy should be updated yearly and provide a statement of commitments and named individuals responsible for:

- first aid (you should also have a well-stocked first-aid kit available)
- electrical equipment
- accident and incident reporting to the relevant services
- general site safety
- fire safety.

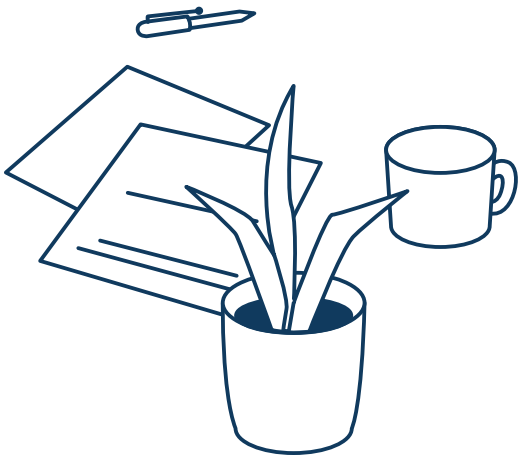
Q: Who is in charge of first aid?

A: Regardless of the type of provision you offer, you should be able to name a designated person in charge of first aid and tell parents what first-aid training this designated person has had. This designated person could be yourself or another person employed by or volunteering at the setting. You should also let parents know that you have a first-aid kit available. Where you have multiple staff members, the location of the first-aid kit should be clearly displayed in the setting.

Q: Do you have a parental consent and emergency details form that I need to return to you?

A: You should collect more than one emergency contact number (where reasonably possible) and the necessary medical information for each child. To collect this information, you might consider giving parents a physical or electronic consent form at the first session and asking for it back as soon as possible. If a child attends the setting for over a year, you should ask for this information to be updated each year.

If more than one child attends your setting, it is good practice to create a register in case of an emergency, such as a fire or in the event of one of the children in your care going missing. Any personal data you collect through consent forms or registers should be securely stored and not retained longer than necessary.



Section 2: Safeguarding and child protection

Basic Requirements

Remember: The practices and training that you put in place should be regularly reviewed to ensure the children in your setting are safe.

I am a large provider (5 or more staff)

You should read the following subheadings:

- Safeguarding and child protection policy, including procedures
- Specific safeguarding issues
- Designated safeguarding lead (DSL), including managing safeguarding concerns and working with staff and volunteers
- Working alone with children
- Reporting concerns about a colleague
- What to do if a child makes a disclosure
- Local authority children's social care and multi-agency safeguarding arrangements

This is to ensure you:

- ☐ have a written child protection policy and written procedures in place
- ☐ are aware of the specific safeguarding issues that can put children at risk of harm and undertake appropriate training (e.g. abuse and neglect, peer-on-peer abuse, etc)
- ☐ have appointed a suitably trained DSL
- ☐ have made staff and volunteers aware of what to do if they have concerns about a colleague who may pose a risk of harm to children
- ☐ have ensured that all staff and volunteers know the referral route into local authority children's social care.

I am a small provider (4 or fewer staff)

You should read the following subheadings:

- Safeguarding and child protection policy, including procedures
- Specific safeguarding issues
- Designated safeguarding lead, including managing safeguarding concerns and working with staff and volunteers
- Working alone with children
- Reporting concerns about a colleague
- What to do if a child makes a disclosure
- Local authority children's social care and multi-agency safeguarding arrangements

This is to ensure you:

- ☐ have a written child protection policy and written procedures in place
- ☐ are aware of the specific safeguarding issues that can put children at risk of harm and undertake appropriate training
- ☐ have appointed a suitably trained DSL
- ☐ have made staff and volunteers aware of what to do if they have concerns about a colleague who may pose a risk of harm to children
- ☐ have ensured that all staff and volunteers know the referral route into children's social care.

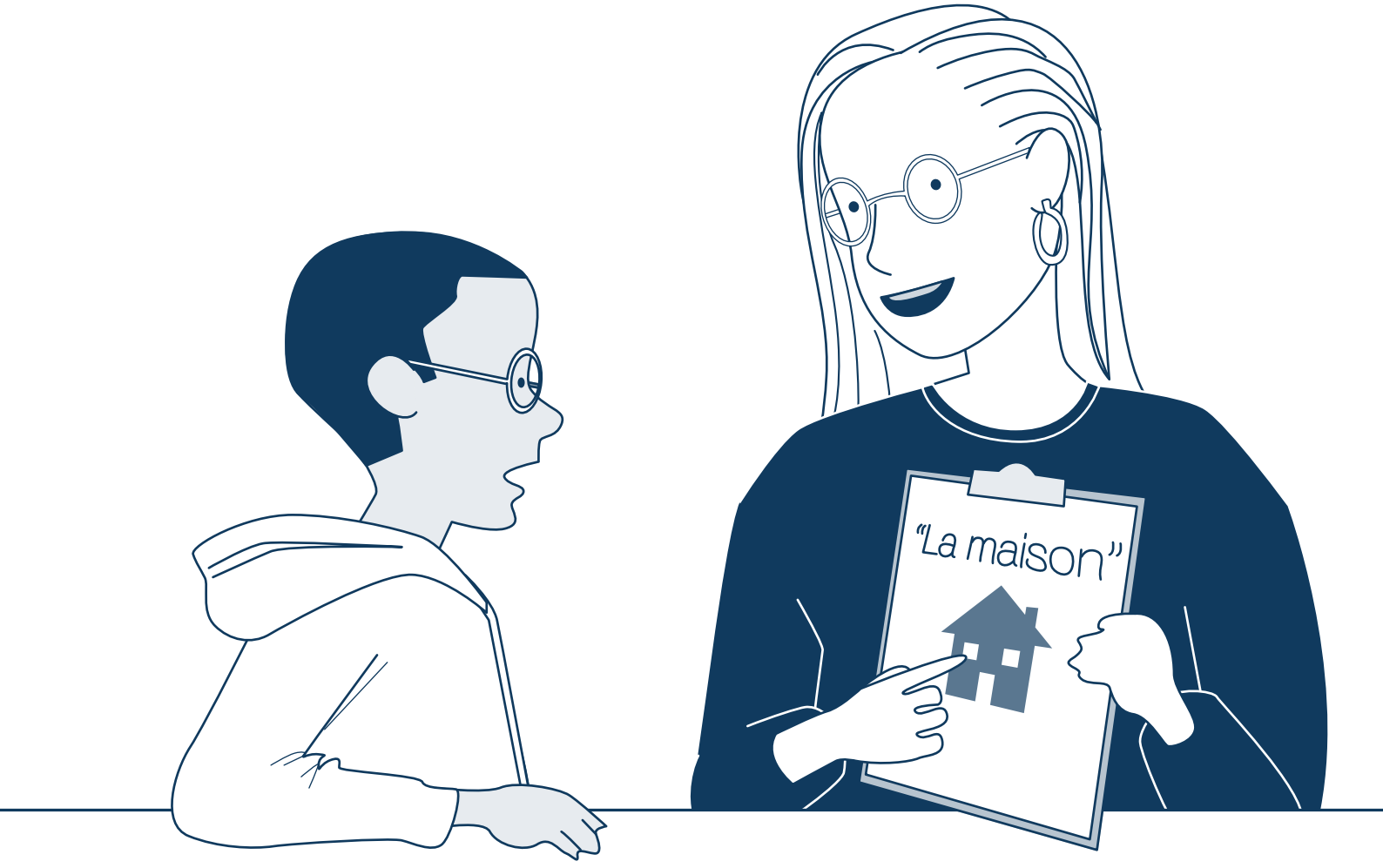
I am a volunteer, a paid employee, or lone provider

You should read the following subheadings:

- Safeguarding and child protection policy
- Specific safeguarding issues
- Designated safeguarding lead, including managing safeguarding concerns
- Working alone with children
- Reporting concerns about a colleague
- What to do if a child makes a disclosure
- Local authority children's social care and multi-agency safeguarding arrangements

This is to ensure you:

- ☐ have a written child protection policy in place and can verbally detail the steps you will take to protect children in your care
- ☐ are aware of the specific safeguarding issues that can put children at risk of harm and undertake appropriate training
- ☐ know what to do if they have concerns about a colleague or other adult who may pose a risk of harm to children
- ☐ know how to contact your DSL or, if you are the DSL, the referral route into children's social care.



Safeguarding and child protection is everyone's responsibility. DfE statutory guidance "**Working Together to Safeguard Children**" applies to all organisations and agencies who have functions relating to children. It sets out how they should work together to safeguard and promote the welfare of children. It is clear that anyone working with children should make their approach child centred (i.e. give priority to the interests and needs of the child).

So, you should designate an adult (which could be yourself) to have lead responsibility for safeguarding children while they are 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.

All staff, especially the DSL, 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, and from the wider/online community.

We advise staff and volunteers working with children to maintain an attitude of 'it could happen here'. When concerned about a child's welfare, they should always act in the child's best interests. They should know and understand the setting's safeguarding processes and the appropriate escalation route[13]. These ideas should form the basis of your child protection policy.

If school, college or Local Authority premises are used for out-of-school setting purposes, the school or college must continue to have regard to **Keeping Children Safe in Education (KCSIE)** when they rent out their facilities. Providers should check that the school or college has included safeguarding in their rental/hire agreement, or their Memorandum of Understanding if there is no formal contract. The provider must comply with any terms that the school or college sets to comply with KCSIE.

Safeguarding and child protection policy

As a provider, you should have a clear and effective child protection policy in place that says how you will protect children in your care. Policies should be tailored to your own organisation and will vary from one organisation to another, but regardless of the type and size of your setting it should include at a minimum:

- A short policy statement, setting out the priority you give to keeping children and young people safe and, in broad terms, how you seek to achieve this. This document should be no more than about 2 sides of A4.
- A commitment that under no circumstances should any staff member or volunteer inflict physical or psychological harm on a child. Assault of children is against the law. If any adult causes physical or psychological injury to or mistreats a child, they could be prosecuted for a criminal offence.
- A list of procedures that enable you to keep the children in your care safe. If you are 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.
- Any additional guidance, information or expectations that you need families and anyone else linked to your organisation to be aware of. These should include details of your designated safeguarding lead (DSL), and how to contact them, as well as contact details for local safeguarding services such as local authority **children's social care**, the local authority designated officer (LADO) and the police. More information on the roles of the DSL, local authority children's social care and the LADO are explained further in this guidance. The NSPCC provides **guidance on how to write user-friendly procedures** which you might find helpful.

13 'Escalation routes' refers to higher-ranked individuals that a member of staff or parent/carer can consult to resolve a concern

Procedures

If you have one or more employees or volunteers in your setting, then it is important to write down your procedures to ensure that 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 may be at risk of abuse or exploitation.
- procedure to use in the event of allegations or concerns of peer-on-peer abuse in your organisation
- procedure to deal with allegations or concerns that an adult working with children and young people in your organisation may present a risk of abuse
- complaints procedure that includes provision for children, young people and families to raise a safeguarding concern

If you have employees or volunteers, you should also consider additional guidance, information or expectations that you need them to be aware of. These should include:

- a code of conduct for staff and volunteers
- information about the different types of abuse, signs and symptoms
- 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** which you might find helpful.

Specific safeguarding issues

Staff and volunteers should be aware of safeguarding issues that can put children at risk. 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. Behaviours linked to issues such as drug taking, alcohol abuse, missing education and sexting (also known as sharing self-generated indecent images) endanger children.

Abuse and neglect

Staff and volunteers should be aware of indicators of abuse and neglect so they can identify children who may need help or protection and know how to deal with the matter. Abuse can be physical, emotional or sexual and, can take place in a variety of settings, including in the family environment or the local community. It includes child sexual exploitation (CSE)[14] and child criminal exploitation (CCE)[15]. Signs of abuse could be behaviour changes, such as becoming withdrawn or seeming anxious, physical signs, such as having money or items that they can't explain, or something they say, such as a comment that shows knowledge of adult issues inappropriate for their age. Further information about safeguarding concerns and indicators of abuse can be found in Keeping Children Safe in Education and **'What to do if you're worried a child is being abused: advice for practitioners'.**

Any concerns about a child should be acted on immediately. This will typically involve speaking to the Designated Safeguarding Lead (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, if appropriate, the police) at once. If you are the DSL, you should talk to your local authority children's social care team if you have any concerns. Referrals should follow the local authority's referral process.

14 Child sexual exploitation (CSE) is a type of sexual abuse. When a child or young person is exploited they're given things, like gifts, drugs, money, status and affection, in exchange for performing sexual activities. Children and young people are often tricked into believing they're in a loving and consensual relationship. They may trust their abuser and not understand that they're being abused.

15 Child criminal exploitation (CCE) is a type of child abuse where children and young people are manipulated and coerced into committing crimes. This could include, for instance, organised criminal gangs who are operating in cities exploiting young people into moving drugs from an urban hub into other markets such as suburban areas or coastal towns (the police term for this is 'County Lines').

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. The DSL will consider the most appropriate course of action and make referrals to appropriate agencies as required. If a staff member believes after such consideration a child may still be at risk of harm they should speak to the DSL. If they are still not satisfied they should consider making their own referral into local authority children's social care or the local authority designated officer (LADO). For more information on the LADO and Local Authority Children's Social Care see the subheadings **Managing Safeguarding Concerns** and **Local Authority Children's Social Care and Multi-Agency Safeguarding Arrangements**.

Example scenario: Noticing abuse and neglect

Two volunteers at a local art group for children notice a father shouting at his eight-year-old daughter when he comes to collect her. He is shouting in another language and they aren't 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

Never wait until a child or young person tells you directly that they are experiencing abuse before taking action. 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, which may include making a referral to the local authority children's social care team.

Peer-on-peer abuse

Staff and volunteers should read this section of the guidance and be aware that peer-on-peer (often referred as child on child) abuse is a safeguarding issue. Such abuse is most likely to include, but is not limited to:

- Abuse in intimate personal relationships between peers
- bullying (including cyberbullying)
- physical abuse such as hitting, kicking, shaking, biting, hair pulling, or otherwise causing physical harm
- sexual violence, such as rape and sexual assult
- sexual harassment, such as sexual comments, remarks and jokes either in person or online
- "sexting" (also known as sharing self-generated indecent images)
- initiation/hazing-type violence and rituals[16]
- upskirting[17]
- criminal and sexual exploitation

Staff and volunteers should be clear about their setting's policy and procedures on peer-on-peer abuse. As described under the subheading **Safeguarding and child protection policy**, it should be set out in the child protection policy.

16 Hazing (initiation ceremonies) refers to the practice of rituals, challenges, and other activities involving harassment, abuse or humiliation used as a way of initiating a person into a group.

17 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 peer-on-peer 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. He is now being bullied about it by friends and other children who attend the football club and who have seen the image.

Our advice

Even when incidents happen outside your organisation, you are responsible for taking action to protect the children and young people involved.

If you are 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 seek advice from the local authority's children social care. Parents should be informed at an early stage and involved in the process, unless there is a good reason to believe that doing so would put the child at risk of harm. Victims should always be taken seriously, reassured, supported and kept safe. The coach should not promise confidentiality at the initial stage, but should only share the report with those necessary for its progression.

If the child is suffering or is likely to suffer harm, it is important that a referral to the local authority children's social care team (and, if appropriate, the police) is made immediately.

Online safety issues

It is important to recognise that the misuse of technology plays a significant part in many safeguarding issues, such as peer-on-peer abuse, child sexual exploitation, child criminal exploitation, radicalisation, and sexual predation. Technology often provides the platform that facilitates harm. 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 incident where appropriate.

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

- **content:** being exposed to illegal, inappropriate or harmful material; for example, pornography, racist or extremist views, glamorisation of drugs or gang lifestyles
- **contact:** being subjected to harmful online interaction with other users; for example, adults posing as children or young adults, and
- **conduct:** personal online behaviour that increases the likelihood of, or causes, harm; for example, making, sending and receiving explicit images, or online bullying.

You should be able to have positive, supportive conversations about online safety with young people when appropriate.

If your setting provides internet-connected devices or internet connectivity, then it is important that you have an online safety policy for both staff and children. For more information on what this should include see the subheadings **Online safety policy** and **Staff behaviour policy** in the Other Requirements section.

Extremism and radicalisation

Staff and volunteers should be vigilant to ensure that no person in the setting is exposed to extremism or is at risk of radicalisation. Extremists, driven by harmful ideologies, promote or justify actions which run directly contrary to our shared values (defined by the Government as democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs). This causes harm to society in general and is used to radicalise vulnerable people. Radicalisation is the process by which a person comes to support terrorism and extremist ideologies associated with terrorist groups.

Children can become exposed to extremist material and views associated with terrorist groups online and there is a risk that they will share this harmful content with their peers, but you should also be vigilant to the risk of other staff members promoting such views to the children in your setting. This exposure may be through sight of criminal acts that encourage or justify violence as well as, activities or information that glorify

or incite terrorism, advocate honour killings, call for the deaths of members of the British armed forces, or actively promote hatred towards other people or groups on the basis of their belief, opinion or background, or distribution of inflammatory materials.

If you have extremism-related concerns, you should contact your local authority's Prevent lead or designated officer. For more information on how to locate them, see see the subheading **Managing safeguarding concerns**. Information is also available on the government's **Educate Against Hate website**.

Example scenario: Protecting children from extremism and radicalisation

A private tutor teaches three children for an hour a week at the house of one of their parents. Among them is a 14-year-old boy who has become increasingly argumentative when discussing World War II. He has told the tutor that he thinks people who are not white are not really British. He says that people from ethnic minority backgrounds are 'taking over' and, for this reason, only white people should be able to vote in elections. He won't listen to different points of view and has made comments towards another student, who he was previously friendly with, that are abusive and racist.

When the tutor talks to the boy about his changed behaviour, he tells her he has been speaking to someone online who has been encouraging these views. He no longer speaks with his old friends because they don't share his opinions, but his online acquaintance is encouraging him to meet in person so he can introduce him to others who share these views.

Our advice

The boy's changed behaviour may mean he is being radicalised by the person he has met online. The private tutor should try to talk to the boy's parents to find out if they are aware of the situation. She should then contact her local authority's Prevent lead or designated officer, so they can advise her further on what support is available. She can find these details on her local authority's website by searching for 'Prevent' or 'Child Safeguarding'.

Children with special educational needs (SEN) and disabilities

Children with special educational needs (SEN) and disabilities can face additional safeguarding difficulties. Providers should ensure their child protection policy reflects the fact that additional 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, and
- communication barriers and difficulties in managing or reporting these challenges.

To address these extra difficulties, providers should consider giving more pastoral support to the children, for example, by drawing on external specialist resources or providing staff with additional training.

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 it can be difficult to identify as they often keep it to themselves. This can also be true with other forms of safeguarding issues.

It is important that you and your staff 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, and
- problems eating or sleeping.

Children who are suffering from mental health problems may also be more vulnerable to harms such as exploitation, grooming and radicalisation. Mental health problems may also be indicators of, or seen in conjunction with, other forms of harm – such as abuse and neglect, peer-on-peer abuse, exploitation, grooming, or radicalisation.

If you are worried that a child who attends your setting may be suffering from a mental health problem, the NSPCC gives guidance on children's **mental health** and on **preventing self-harm**. As per your child protection policy, if there is a suggestion that a child has been harmed or is at risk of harm this should be raised with the DSL and consideration given to making a referral to local authority children's social care. You can find further advice and support by contacting the NSPCC at **help@nspcc.org.uk** or by phone at 0808 800 5000.

Designated safeguarding lead (DSL)

Information on appointing a designated safeguarding lead is included at **the beginning of this section**. Where appropriate, you can appoint yourself as the DSL (e.g. if you are a lone provider).

DSLs should be suitably trained and have a good understanding of specific safeguarding issues (including bullying, physical abuse, sexual harassment and sexual violence, sexting, hazing, online safety, substance abuse and extremism and radicalisation), child protection, what abuse and neglect look like, referral processes into the local authority children's social care team and what to expect when a referral is made to children's social care.

Managing Safeguarding Concerns

Detailed information on a Designated Safeguarding Lead's (DSL) duties and relevant training can be found at **Annex B in the latest Keeping Children Safe in Education (KCSIE) guidance**. Although KCSIE is intended for schools and colleges, it is useful for OOSS providers. DSLs can also contact their local authorities for information on training and safeguarding.

It is 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 – this information is available through your local authority. To find your local authority, go to **'Find your local council'** and enter the postcode of your setting. Contact details for your local authority's multi-agency safeguarding hub, safeguarding lead or Prevent officer[18] are often listed on the website under 'child safeguarding' or 'child protection services'. Find **details on how to make a referral to children's social care**.

If concerned about a child, the DSL may discuss the matter with their local authority children's social care team before deciding whether to make a referral to them. In some cases, early help services can be delivered to children and their families[19].

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 referrals to children's social care should be made and what to expect afterwards.

The DSL should record any concerns regarding abuse and neglect, what they have done about them and the reason for their decisions. There are a range of **templates available online** which give examples of how concerns can be recorded in education settings, but these can also be adapted for use by out-of-school providers.

18 Prevent officers are only appropriate to contact if you have extremism-related safeguarding concerns. For all other safeguarding concerns, contact the local authority's safeguarding lead.

19 Early help, or early intervention, is support given to a family or child when a problem first emerges. For example, if a child is displaying risk-taking behaviour, early help practitioners might work with the child and their parents to find out the reasons for the child's behaviour and put strategies in place to help keep them safe.

Working with Staff and Volunteers

Staff and volunteers should be aware that they must raise all safeguarding concerns with the Designated Safeguarding Lead (DSL) immediately.

The DSL should act as a source of support, advice, and expertise to staff and volunteers on matters of safeguarding. But it is important that all staff and volunteers know the appropriate safeguarding policies they should follow.

The DSL should also know the contact information of their local authority designated officer (LADO), who may also simply be known as 'the designated officer'. The role of the LADO is to coordinate all allegations and concerns made against a person who works with children. The LADO will advise, in discussion with the Senior Manager within the Organisation (SMO), on what action should be taken by the provider and whether the matter should be referred to Children's Social Care. This will be important when considering any concerns about staff or volunteers as discussed under the subheading **Reporting concerns about a colleague who may pose a risk of harm to children**, or disclosures made by a child as described under the subheading **What to do if a child makes a disclosure of abuse or harm**. The LADO's contact details can usually be found on your local authority website.

In addition to alerting the LADO, the DSL should inform the police if a crime may have been committed.

Working alone with children

In most situations, you should have at least two adults present when working with children and young people in your setting. However, sometimes it may be appropriate or necessary for an adult to supervise a small group of children on their own or to speak one-to-one with a child. This could happen if a child in your group asks to speak to a trusted adult alone or if you are a lone provider, for instance.

If you typically work alone with children (for example, if you are a private tutor), then it is good practice to arrange a meeting with the child and their parent or carer so you can agree what will happen during sessions and where you will be and at what time. You should also give them a copy of your child protection policy.

You should 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. More information on parental consent can be found at Section 1 under the subsection **Parental Consent and Attendance Registers**.

If you are working alone unexpectedly with a child or young person, you should make sure you are somewhere where other people can see you – for instance, in a room with a window. You should also tell another adult that you are alone with the child; this could be your supervisor or designated safeguarding lead.

Reporting concerns about a colleague who may pose a risk of harm to children

Being clear about your expectations of the behaviour of staff is an important part of safeguarding the children in your care. A staff behaviour policy sets out the standards of behaviour your staff, including volunteers, should follow. It should include clear expectations of what people should do and say, and what they must not. This will help raise awareness of illegal, unsafe, unprofessional and unwise behaviour. See the subheading **Staff behaviour policy** in the Other Requirements section for more information on what should be included in a staff behaviour policy.

Providers should ensure they have procedures in place, including clear escalation routes, to manage concerns and allegations against staff and volunteers that might indicate they pose a risk of harm to children. Such allegations should usually be referred to the Designated Safeguarding Lead (DSL)[20] or another agreed senior person, who will then escalate the concern to the Local Authority Designated Officer (LADO).

20 If the concern or allegation is against the DSL then you should escalate the concern to the local authority designated officer.

Working Together to Safeguard Children gives more guidance on dealing with allegations about people in positions of trust. Part 4 of Keeping Children Safe in Education explains the procedure for handling the allegations.

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 (adults or children) which have resulted in or risk significant harm to them. For help handling safeguarding allegations about the behaviour of an adult towards a child in a charity, see the Department for Digital, Culture, Media and Sport's online safeguarding tool. More information on when and how to report an incident is also available in the Charity Commission's guidance.

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. These should include clear instructions on the local referral route into children's social care (as described at subheading Local authority children's social care and multi-agency safeguarding arrangements). 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 you should:

- listen carefully to the child so they know that you are 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 will do next (if age appropriate)
- report the abuse without delay.

It is important not to investigate the disclosure yourself (beyond the information gathering set out) as this may jeopardise a police or social care investigation and possibly the prosecution of the offender. It is important you 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 Designated Safeguarding Lead or other relevant senior colleagues should have access to the records, and you should only keep them for as long as necessary. The information should not be given to other parties without the child's consent (or parental consent if the child is under 13)—except for legitimate sharing of safeguarding information as described at subheading GDPR and the Data Protection Act 2018 in the Other Requirements section.

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

It is important that staff and volunteers, but especially the Designated Safeguarding Lead (DSL), are aware of the local referral route into children's social care (this may be via a multi-agency safeguarding hub)[21].

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 providers – see chapter 3 of Working Together to Safeguard Children for more detail. All local areas published online their new multi-agency safeguarding arrangements by the end of June 2019 and implemented them by the end of September 2019.

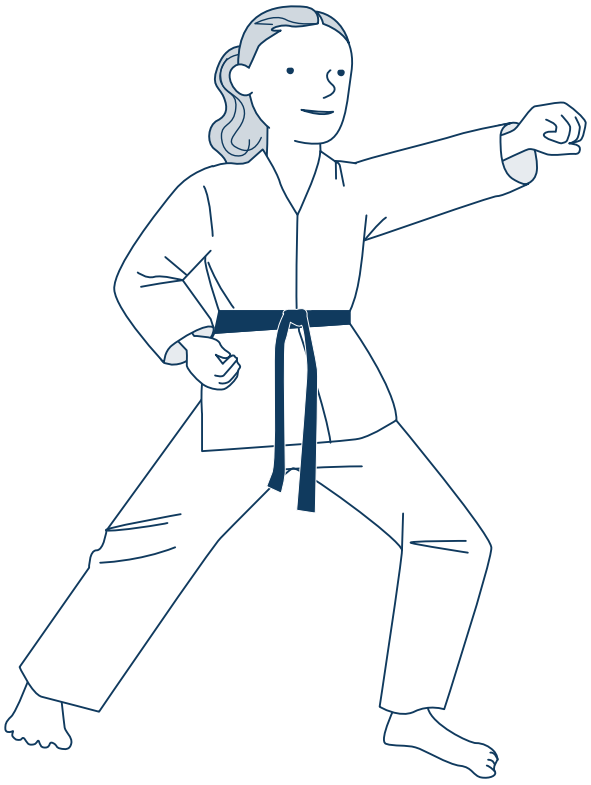
21 Local arrangements vary for receiving referrals but your local authority will have the relevant steps and contact details for making a referral on its website; for instance, your local authority may have direct contact details to the relevant Children's Social Care office or multi-agency safeguarding hub. Whatever the local route for a referral, it should be assessed by a qualified social worker and a decision should be made by the relevant line manager within the time scale of one working day about what should happen next.

You should familiarise yourself with your local arrangements and contact the partnership should you need more information or engagement. Check the **online guidance** for contact details on how to make a referral in your area.

Legal Requirements and Statutory Guidance

When considering safeguarding and child protection in your setting, you should have regard to the following statutory guidance[22]:

Working Together to Safeguard Children – outlines that every VCSE (voluntary, community and social enterprise), 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.



22 Statutory guidance sets out what must be done to comply with the law. Organisations or individuals that the statutory guidance is aimed at should follow it unless they have a very good reason not to.

Questions a parent or carer may ask you

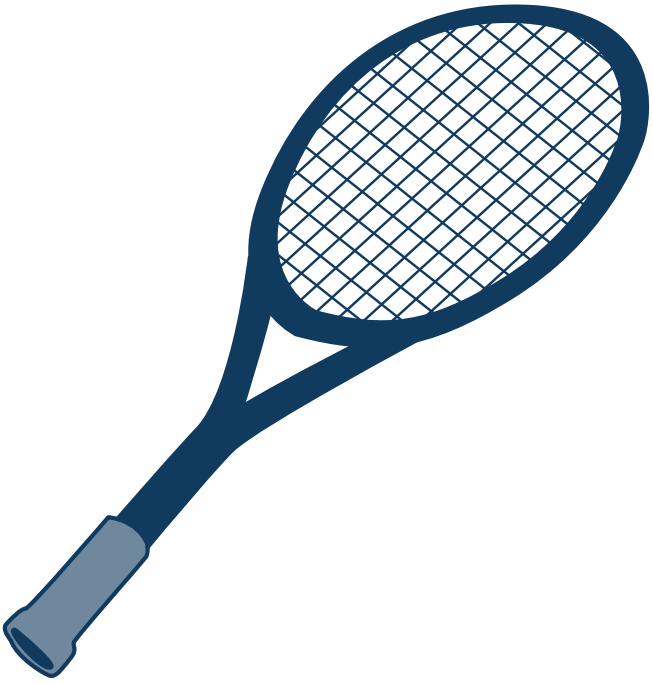
Note – some of these questions will not be relevant to all providers. For example, if you are running an informal football club by yourself on a voluntary basis, we would not expect you to talk regularly to children in your setting about online safety, but you should be able to provide reassurance to parents that you are taking reasonable steps to ensure the children in your care are safe.

Q: Who is responsible for child protection and what training have they had? How recent was this training?

A: You should be able to name a person who is responsible for safeguarding; if you are a lone provider this may be yourself. The Designated Safeguarding Lead (DSL) should have had the training that gives them the knowledge and skills needed for their role. At a minimum the DSL should be aware of the safeguarding issues children may face in settings and have the contact for the local authority children's social care team. There is no set requirement for how often training is to be repeated, but the DSL may want to conduct a regular review of the training they have undertaken and consider whether there are new legislative requirements or if the circumstances of your provision have changed (for example, an increase in the number of children or catering for children with Special Education Needs and Disabilities (SEND)). This might mean they need to repeat or seek extra training. The DSL may want to consider conducting this review once a year, for example.

Q: Will anyone besides the instructor or other children's parents be present in the setting while my child is there? If so, will they be there regularly?

A: As a rule, 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 also 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.



Q: May I see your child protection policy and procedures?

A: If you run provision for children and engage one or more volunteers or paid employees, you should be able to give or show a physical or electronic copy of your setting's child protection policy to a parent on request. Make sure it includes a short policy statement setting out the priority you give to keeping children safe, a commitment that no member of staff will ever inflict corporal or emotional punishment, and a list of procedures that will enable you and your staff to achieve the measures you refer to in your policy statement. Each procedure you detail in your child protection policy should also be written down clearly and distributed to all staff members.

If you are a volunteer or are a lone provider, you should still have a written child protection policy that you can give to parents on request. You do not need to write out your safeguarding procedures but you should be able to provide reassurance to parents that you are aware of the specific safeguarding issues that children can face in your setting and detail reasonable steps you will take to ensure the children in your care are safe.

Q: Is my child allowed to access the internet unsupervised?

A: Children should be 13 or older to access the internet unsupervised. Your setting should not allow children under 13 to do so.

If children can access the internet unsupervised, you should have filtering and monitoring systems in place as outlined at subheading **Online safety policy** in the Other Requirements section.

Q: How do you securely store the information you hold on my child? Who has access to it, and do you give it to anyone else?

A: If you keep any information on children who attend your setting, such as a register, you should be able to detail how you store paper and electronic copies of files. If you store electronic data, it should be encrypted, and password protected. If you store paper data, it should be secured with a lock and ideally in a private office.

The DSL, or someone senior enough in the organisation to trust with it, should have access. This information should not be given to other parties without the child's consent (or parental consent if the child is under 13) – with the possible exception of legitimate sharing of safeguarding information as described at subheading **GDPR and the Data Protection Act 2018** in the Other Requirements section.

Q: How do you talk to children about online safety?

A: You should be able to show you have a good general understanding of the different risks young people can face online, such as adults posing as children on anonymous chatrooms. You should be able to show you have positive, supportive conversations about online safety with young people when appropriate.

Section 3: Suitability of staff and volunteers

Basic Requirements

Remember: It is important to not rely on any single check (for example, DBS) when deciding on the suitability of staff. It is also important to continue reviewing the performance, skills and training of your staff after appointment and to ensure that they are aware of the safeguarding policies and procedures as described in Section 1 and 2 of this guidance.

I am a large provider (5 or more staff)

You should read the following subheadings:

- Recruitment
- Pre-employment checks
- References
- Are you a regulated activity provider?
- Have staff and volunteers undergone DBS checks?
- What regulated activity providers should do if concerns are raised about staff and volunteers
- After appointment

This is to ensure you:

- ☐ have taken appropriate steps during the recruitment of new staff and volunteers to ensure they are suitable
- ☐ have determined whether your setting makes you a regulated activity provider
- ☐ have undertaken the appropriate checks on staff and volunteers (for example, DBS, pre-employment, etc)
- ☐ regularly review the performance and suitability of staff and volunteers after appointment.

I am a small provider (4 or fewer staff)

You should read the following subheadings:

- Recruitment
- Pre-employment checks
- References
- Are you a regulated activity provider?
- Have staff and volunteers undergone DBS checks?
- What regulated activity providers should do if concerns are raised about staff and volunteers
- After appointment

This is to ensure you:

- ☐ have taken appropriate steps during the recruitment of new staff and volunteers to ensure they are suitable
- ☐ have determined whether or not your setting makes you a regulated activity provider
- ☐ have undertaken the appropriate checks on staff and volunteers (for example, DBS, pre-employment, etc)
- ☐ regularly review the performance and suitability of staff and volunteers after appointment.

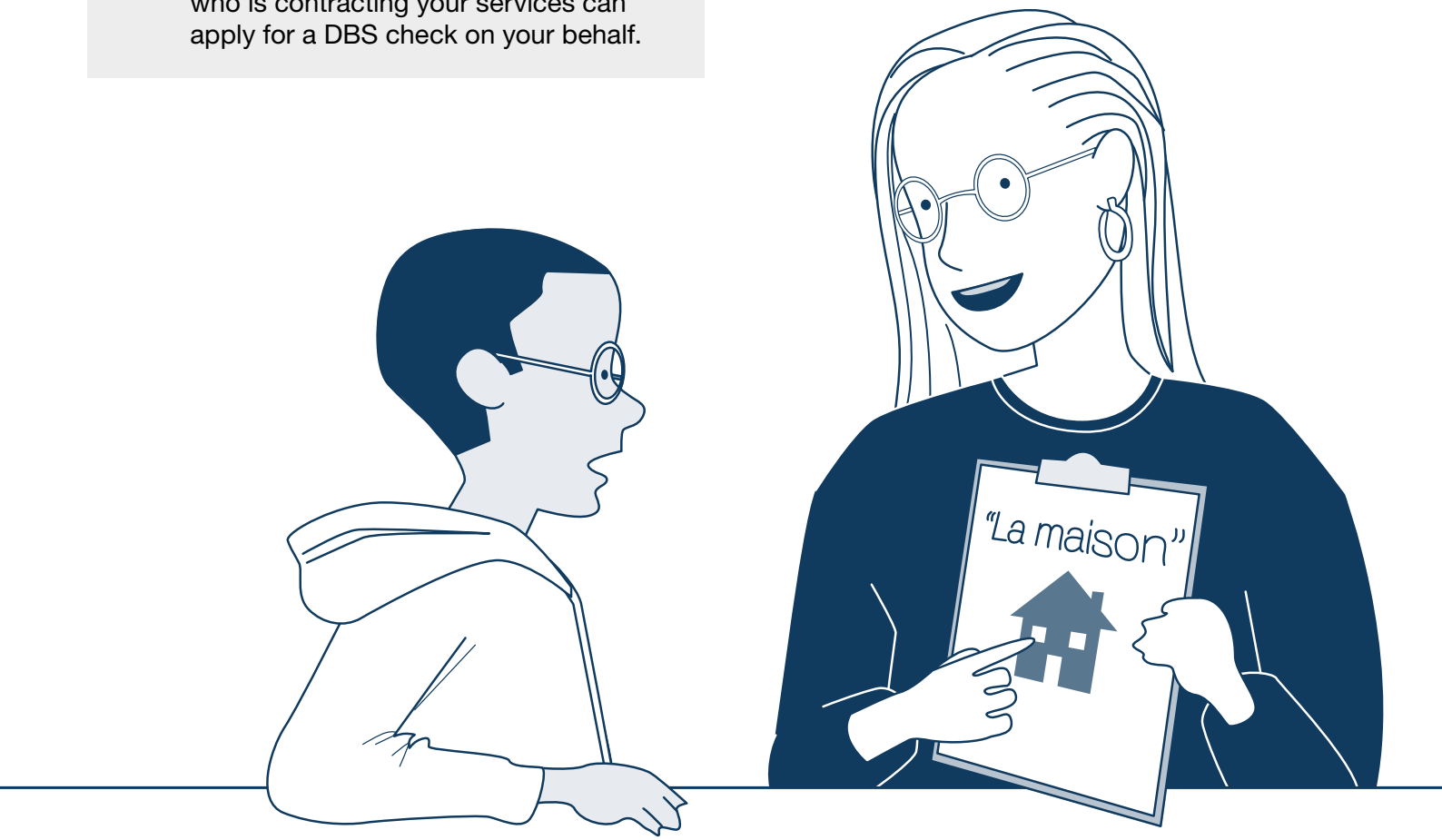
I am a volunteer, a paid employee, or lone provider

You should read the following subheading:

- DBS checks when self-employed or volunteering

This is to ensure you:

☐ have checked whether the employer who is contracting your services can apply for a DBS check on your behalf.



Recruitment

Providers should safeguard and promote children's welfare. So, it is vital that you apply robust procedures that deter and prevent unsuitable people from working or volunteering in your setting.

To ensure you hire or recruit suitable people[23]:

- check that applicants have the right skill set and ask for details of previous experience – this could be in teaching experience, voluntary work, qualifications, subject knowledge, English-language skills and financial expertise
- ask for references and make sure you take them up. More details are given below.
- check whether your local authority children's social care team or local authority designated officer offer safer-recruitment training.

Pre-employment checks

Before employing a person, employment law requires you to confirm their identity and that they are permitted to work in the UK. To assess a person's suitability to work with children, you should make some other important checks before allowing prospective staff or volunteers to take up their post, such as the appropriate level of criminal records checks (Disclosure and Barring Service (DBS) checks), including a 'children's barred list' check where relevant for the role. Also, where relevant to the role consider prohibition checks such as those that prohibit someone being a teacher at a school (teacher prohibition) or running an independent school (section 128 checks). We give more guidance and advice on how you should complete these checks in this section.

References

The purpose of seeking references is to get objective and factual information to support appointment decisions. You should scrutinise references and resolve any concerns satisfactorily before confirming the appointment, including for any internal candidate.

You should always ask for written information about employment history, qualifications, or personal references, and check it is consistent and complete. Always take up a reference from the candidate's current employer. If a potential employee does not have a career history, seek personal references from school/university staff. If a candidate is not currently working, get verification of their most recent period of employment and reasons for leaving from the organisation where they were employed.

Taking up references enables any concerns to be explored further with the referee and raised with the successful candidate. References should always be requested directly from the referee and preferably from a senior person with appropriate authority, not just a colleague.

Do not rely on open references, for example, 'to whom it may concern' testimonials, nor should you only rely on information provided by the candidate as part of the application process without verifying it. If you are given electronic references, ensure they originate from a legitimate source.

On receipt, check the references to ensure they answer all specific questions satisfactorily. Contact the referee for more clarification as appropriate, for example if the answers are vague or insufficient. They should also be compared for consistency with the information provided by the candidate on their application form. Any discrepancies should be taken up with the candidate.

Consider carefully any information about past disciplinary action or allegations that are disclosed.

23 You may find it helpful to refer to paragraph 138, part 3 of the Statutory Guidance on **'Keeping Children Safe in Education'** for a full list of pre-employment checks.

Example Scenario: Safe Recruitment

A football coach runs training sessions for children aged 7-15 three times a week alongside a volunteer assistant coach who helps her to supervise the children. The volunteer assistant coach is moving to another area in the next few weeks and so the football coach will need to find a new assistant to help her to supervise the children. 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

Robust recruitment practices are an important part of keeping children safe. The football coach should not rely on a recommendation from one of the children's parents. She should advertise the assistant coach position 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) and 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. She should ask the successful candidate to provide her with references from previous voluntary experience or employment and check these references to make sure they answer all the appropriate questions satisfactorily. As the assistant coach will be helping with training sessions three times a week, this would be considered regulated activity and so the football coach should also ensure that the volunteer is DBS-checked.

Are you a regulated activity provider?

It is important to determine whether you are a regulated activity provider. If you undertake regulated activity, you have extra safeguarding responsibilities (specifically on DBS checks) which are outlined further in this guidance.

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). Regulated activity regarding children comprises, in summary:

- unsupervised activities: teaching, training, instructing, caring for or supervising children, or providing advice/guidance on wellbeing, or driving a vehicle only for children
- working for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. This does not include work by supervised volunteers
- relevant personal care, for example, washing or dressing; or health care by or supervised by a professional, and
- registered childminding; and foster-carers.

Work under the first two points is regulated activity only if done regularly: 'regularly' is defined as activity by the same person frequently, or on more than three days in a 30-day period, or overnight (between 2am and 6am). Therefore, a ballet teacher training a class of children for two evenings a week would be regulated activity. Equally, an unsupervised volunteer supervising children at a tuition centre on the weekends would also be regulated activity.

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). Individuals can be barred if they are convicted or cautioned for a relevant offence (such as sexual and violent offences), or if they are referred by their employer (or the provider they are volunteering with) 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.

Have staff and volunteers undergone Disclosure and Barring Service (DBS) checks?[24]

Getting a DBS check is an important part of certain professions' recruitment and safeguarding policies and practice; however, if a provider is also a regulated activity provider, it is especially important that all relevant staff and volunteers are DBS checked. This is because you will break the law if you knowingly recruit someone to work in regulated activity who has been barred from working with children. This applies to staff and volunteers that are unsupervised workers.

The DBS provides criminal record certificates for people undertaking or applying for roles or occupations that are eligible for a check. Criminal record checks help the employer to determine the suitability of an individual for a particular role, especially when working with children, and should be considered alongside other information such as references. There are four types of DBS check: Basic, Standard, Enhanced and Enhanced with a barred list check. These checks will disclose unspent[25], and for certain roles, some spent convictions and cautions, subject to rules set out in law. A DBS check gives information only about records held in the UK. For a **more detailed description of DBS checks**.

Basic DBS checks may be obtained for any purpose. Roles are eligible for standard and enhanced checks only if they meet certain criteria. To show which kind of check is right for your staff, DBS provides an **eligibility tool**. It tells you which roles or activities could be eligible for a basic, standard or enhanced DBS check.

An application for a DBS check must be countersigned by an organisation registered with the DBS, which is responsible for ensuring only eligible checks are submitted (known as a registered body or an umbrella body). Your local authority should be registered as an umbrella body and might be able to give you access to apply for DBS checks. The DBS also provides **guidance for employers** and **guidance for charities** working with children on how and when to request checks.

You should regard DBS checks as a snapshot of a particular time period. Do not rely on them indefinitely or if a person's role changes.

If you want to employ someone from overseas, you should request a criminal records' check from the countries where they have lived and worked. The Home Office has published **guidance** on how to do this. The employer or the individual may apply, either in the person's home country or at the relevant country's embassy based in the UK. It is also important to take up references from previous employers or educational bodies.

DBS checks when self-employed or volunteering

You can apply for a basic DBS check for yourself; if the role is eligible for a standard or enhanced check it must be done on your behalf via the organisation that is recruiting you. If you are self-employed, you are unable to apply for a standard or enhanced DBS check unless there is a contracting organisation e.g. a school, local authority or agency making a suitability decision on you. The organisation will then submit the check on your behalf.

24 Previously known as Criminal Records Bureau (CRB) checks

25 Spent **convictions** are those **convictions** that have reached a set period as **defined** by the Rehabilitation of Offenders Act 1974, and are not required to be disclosed for most roles. **Unspent convictions** are those records that have not yet reached this **defined** time and will appear on a Basic Criminal Record Check.

Childcare disqualification

For staff who work in childcare, or are directly involved with its management, employers need to ensure that appropriate checks are done so that they can make sure that individuals have not been disqualified under the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge) (Extended Entitlement) (Amendment) Regulations 2018 (see section 76 of the Childcare Act 2006).

For more about the staff to whom these Regulations apply, the checks, and the recording of those checks, please see **'Disqualification under the Childcare Act 2006'** statutory guidance.

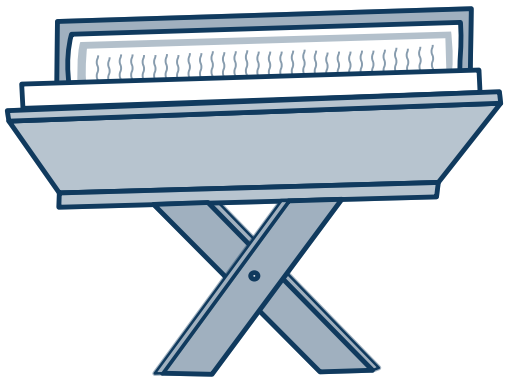
What regulated activity providers should do where concerns are raised about staff or volunteers who may pose a risk of harm to children

If the activity in your setting means you are a regulated activity provider, you should request a DBS check for your staff members or volunteers. You will also be subject to obligations under the Safeguarding Vulnerable Groups Act 2006. This means you have a legal duty to refer an individual to the DBS, where relevant, as set out below:

- 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 (this is termed 'relevant conduct'[26]).
- They have satisfied the harm test[27] regarding children or vulnerable adults (or both); for example, there has been no relevant conduct but a risk of harm to a child still exists.
- They have been cautioned or convicted of a relevant offence.

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 (e.g. to another location), or has resigned, retired, or left the organisation.

You can make a referral to DBS using the **online form**. This is a legal duty. Failure to refer when the criteria are met is a criminal offence. For more on regulated activity, regulated activity providers, and regulated activity establishments, see DfE guidance on **'Regulated Activity in Relation to Children'**.



26 Put simply, relevant conduct is an action or inaction that has harmed or placed a child or vulnerable adult at risk of harm. This is a legal term that is defined for both children and vulnerable adults under schedule 3 of the Safeguarding Vulnerable Group Act 2006.

27 To satisfy the harm test, there needs to be credible evidence of a risk of harm to children or vulnerable adults such as statements made by an individual regarding conduct/behaviour. For a case to be considered as a risk of harm, relevant conduct would not have occurred but there must be tangible evidence rather than a 'feeling' that a person represents a risk to children or vulnerable adults (or both). For example, an instructor who confides in their head instructor that they are sexually attracted to children, but who had not engaged in 'relevant conduct', would still satisfy the harm test. More information on the harm test and relevant conduct is available **here.**

Example Scenario: Responding to a Concern about a Staff Member

The designated safeguarding lead of a tuition centre is told by a volunteer 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 two 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 or how long they've been involved with the organisation. The DSL follows the tuition centre's safeguarding procedures which have been written down and distributed to all staff members. 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 must report the allegation immediately to child protection services, local authority designated officer and the police. The DSL should call the parents of the child and explain that a concern has been raised and give them details on how they are going to manage the allegation. The DSL should also explain to all parties involved that confidentiality is important while the concern is being investigated, but that they will be kept informed about the progress and outcomes of the case. 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.

After appointment

Once appointed, you should regularly monitor and review the individuals in post to ensure they continue to be well suited and have the necessary skills and training to carry out their role and responsibilities. This should include ensuring staff have appropriate training on health and safety and child protection as set out in sections one and two. This review could be conducted once a year, for example, or if the circumstances of your provision change (for example, a child with Special Education Needs (SEN) or a disability joins your setting).

Legal Requirements and Statutory Guidance

When considering 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 – The Childcare Act 2006 provides the legislative framework for the powers and duties of local authorities and other bodies in England in relation to the improvement of the well-being of young children. The 2018 Regulations are made under section 76 of the Childcare Act 2006. They set 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) – set out the law on preventing illegal working in the UK. Under section 15 of the 2006 Act, 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.

Questions a parent or carer may ask you:

Note – some of these questions will not be relevant to all providers.

Q: What checks do you undertake to ensure staff are suitable to work with children? How recent were the checks?

A: Regardless of the type and size of your setting, you should safeguard and promote children's welfare by making sure you have robust procedures in place to prevent unsuitable people from working or volunteering in your setting. You should be able to describe to parents a range of checks that you have undertaken on staff members to reassure them that their child is safe in your care. It is important that you do not rely on one single check (e.g. DBS check) to determine whether staff or volunteers are suitable. Parents may decide to send their children to another setting if your staff have not undergone appropriate checks.

Checks should not be relied on indefinitely and you should be able to explain to parents how staff members are evaluated post-appointment to ensure that they are still able to fulfil their role and responsibilities and how checks are carried out again where appropriate. For instance, for DBS checks it is good practice to run a check before recruiting someone, and then re-check them at what you consider an appropriate interval. It is common practice to re-check once every three years, but the appropriate interval may differ for your organisation.

Q: What training have staff and volunteers had?

A: Training will differ according to the type of setting, but all staff and volunteers should have at least a good working knowledge of, and be appropriately trained in, health and safety and safeguarding and child protection. You should be able to verbally detail the training that staff and volunteers have done and ideally have physical proof of the training that has been undertaken (e.g. copies of certificates).

Q: You are providing a tutor to help my child. How can I be sure they aren't prohibited from teaching?

A: Details of any qualified teacher who is subject to a prohibition order are published on gov.uk[28]. A prohibition order prevents the individual from teaching in any school, sixth-form college, children's home or youth accommodation in England. When considering whether a person is suitable to teach their child(ren) in an out-of-school setting, parents may wish to check that the person isn't prohibited. 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. Providers can also carry out section 128 prohibition checks; individuals with a section 128 are prohibited from running an independent school. A prohibition order does not does not prevent someone from teaching in an out-of-school setting. But when deciding whether to leave their children in the care of a prohibited teacher, parents may wish to consider the circumstances that led to the prohibition.

28 Tutors may not always be qualified teachers so, like the other checks mentioned in this document, TRA checks should be used in conjunction with others to ensure a person is suitable to work with children.

Section 4: Governance

Basic Requirements

I am a large provider (5 or more staff)

Remember: The practices and policies that you put in place, such as your complaints policy, should be regularly reviewed to ensure that they are working effectively.

You should read the following subheadings:

- Charities
- All other providers
- Complaints policy
- Whistleblowing policy

This is to ensure you have:

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

I am a small provider (4 or fewer staff)

You should read the following subheadings:

- Charities
- All other providers
- Complaints policy
- Whistleblowing policy

This is to ensure you have:

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

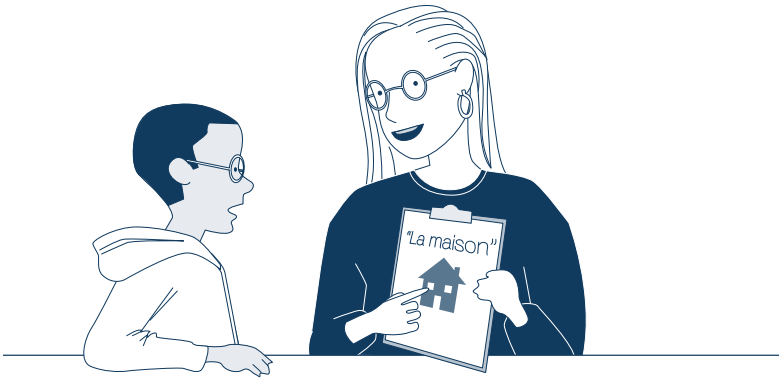
I am a volunteer, a paid employee, or lone provider

You should read the following subheadings:

- All other providers
- Complaints policy
- Whistleblowing policy

This is to ensure you:

- ☐ understand how to declare income gained from your setting on your tax return (if self-employed)
- ☐ have a clear and effective complaints policy
- ☐ are aware of your organisation's whistleblowing policy.



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. Your approach to governance will depend on several factors. For example, a setting that is a charity, or that operates within a charity, must comply with charity law.

Charities

As a new provider, you might want to consider setting up as a charity if you meet the legal test. Most charities in England and Wales are registered with and regulated by the Charity Commission and must comply with a number of rules and regulations (including legal requirements and regulatory expectations on the safeguarding of children and others who may be at risk from harm). So, having charitable status may increase public confidence and reassure parents and carers that providers are regulated and accountable.

Further **guidance on safeguarding in charities** is available from the Charity Commission.

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 to ensure its effective running and day-to-day management. This group could be referred to 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**. You may also wish to refer to **'Good Governance'**, a code for the voluntary and community sector.

If you run a setting with one or more volunteers or paid employees and you make a profit, then you must register with HMRC. You can find more information on the **HMRC website**.

If you are self-employed, you should also visit the HMRC website for guidance on completing a **self-assessment tax return**.

Complaints policy

Sometimes a parent or staff member may be alerted to an issue by their child or another parent regarding an out-of-school setting. As a provider, 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 so that people know how to raise a concern. This should include how to make a complaint, whether in person or in writing, who to complain to, and how it will be dealt with, and
- establish a whistleblowing policy so staff can raise concerns about (a) how the setting is run, (b) other members of staff, (c) the maltreatment of any children, and (d) 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 and know that such concerns will be taken seriously by its senior leadership team.

Appropriate whistleblowing procedures, which are suitably reflected in staff training and staff behaviour policies, should be in place so that such concerns can be raised with the provider's senior leadership team. ACAS has **guidance** on raising grievances at work. Find a **list of prescribed organisations for whistleblowing**.

If a staff member feels unable to raise an issue with their employer, or feels their genuine concerns are not being addressed, find **the government's guidance on alternative routes**.

Personal grievances such as bullying, harassment and discrimination are not covered by UK whistleblowing law, unless a particular case is in the public interest. Staff may not be legally protected against unfair treatment or loss of income as a result of 'blowing the whistle' if they are 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.

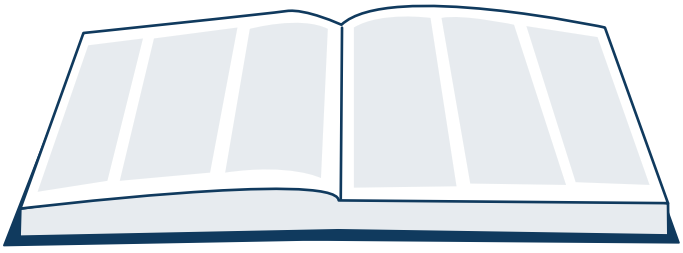
Volunteers, who may not be protected under whistleblowing law, may wish to read the following **government guidance** or seek independent advice from organisations such as Citizens' Advice or ACAS before taking action.

You can call the **NSPCC's Whistleblowing Advice Line** if you need free advice and support with child protection concerns.

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.



Other requirements

Depending on your setting, the children in your care and the type of services, tuition or activity you offer, there may be other safeguarding requirements you should follow. These are detailed below.

Child Performances

Under Section 37 of the Children and Young Persons Act 1963, a licence must be obtained before a child can take part in certain types of performances. This would include, for example, any performance for which a charge is made, performances on premises licenced to sell alcohol (such as a theatre or hotel), or any live broadcast performance, such as a television or radio broadcast (note that this does not extend to user generated content, for example, where young people or a family record themselves and share it on a website or social media).

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. These include performances organised by a school or where a child has not performed on more than 3 days in the last 6 months. You may also be able to apply for 'body of persons' approval (BOPA) for your performance. A BOPA can be issued for an organisation (known as a 'body of persons') by the Local Authority for a specific performance or for a limited period of time as set out in the approval. The granting of a BOPA to an organisation replaces the need to apply for individual licences from each child's home local authority during the period of approval. For more information on exemptions to the licencing requirement, see the advice on **child performance and activities licensing legislation in England**. If you are 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 and all children taking part must be supervised by a chaperone approved by the child's local council, or their parent/carer or school teacher. You can find more information about **child performance licences and becoming an approved chaperone**.

Children with Special Educational Needs or Disabilities (SEND)

If you provide services or activities for children with SEND, you should consider the specific risks these children may face and consider giving extra pastoral support.

Online safety policy

If your setting provides internet connectivity or internet-connected devices (or both), it is essential that children are safeguarded from potentially harmful online material and inappropriate conduct or contact. As part of this process, you should have a written online safety policy or an acceptable use statement. This should outline specific procedures or codes of conduct that exemplify acceptable behaviour online for children and staff to follow. You should ensure that all staff (including volunteers and administrators) as well as parents and children understand and comply with your online safety policy (see the following subheading on **staff behaviour policy** for more information).

You should also ensure your setting has appropriate filters and monitoring systems in place. Risk factors to consider when deciding on a system include the age range of the children in your setting, the number of children and how often they access IT systems in your setting. Bear in mind that children are also likely to have access to the internet from their own devices via 3G, 4G or 5G or public Wi-Fi. The UK Safer Internet Centre has published **guidance** as to what 'appropriate' filtering and monitoring might look like.

Staff behaviour policy

It is good practice to have a staff behaviour policy. This should, among other things, include:

- acceptable use of technologies,
- relationships and communications between children and staff/volunteers, including the use of social media,
- relationships and communications between parents and staff/volunteers, including the use of social media, and
- rules on staff/volunteer contact with children by phone or messaging services (for example, staff should contact the parent/carer of the child and not the child directly)
- a commitment that under no circumstances should any staff member or volunteer inflict physical or psychological harm on a child.

Photography and sharing images

Depending on the type of provision you offer, it may be that family and friends of the children in your care will want to record and share photographs or films of their achievements. If this is the case, you should consider having a photography policy statement that sets 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, for example, it is important that you get parental consent and are able to explain to parents and carers how you use images of children and young people in publications, on websites and on social networking sites, and what actions you take to keep children safe. You may wish to update parental consent annually if a child attends your setting for more than a year.

Visiting Speakers

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 should not be 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.

Overnight stays

If you are taking children on an overnight stay, you will 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, including the steps you are taking to keep their children safe. Ensure parents and carers know the address of where you will be staying and have your contact details. You should also have at least one emergency contact number (but ideally more than one) for the parent or carer of each child attending.

In overnight accommodation, you should ensure 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.

Before taking children on an overnight stay, you should consider any risks and take reasonable steps to ensure the children in your care are safe.

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

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 and keep the information they hold safe and secure. Settings should be aware of this to ensure that information they hold about children is not shared inappropriately or in a way that might lead to its misuse. Settings should not retain personal information longer than necessary. How long settings need to retain information will be based on the setting's needs and legal requirements. For example, a parental consent form which includes emergency contact numbers and a child's medical information should be securely stored until the child no longer attends the setting, and then disposed of securely.

GDPR and the Act do not prevent, or limit, the legitimate sharing of information for the purposes of keeping children safe. Concerns about sharing information must not obstruct the promotion and protection of children's safety and welfare.

GDPR does not prevent an employer asking questions on safeguarding grounds about the suitability of an individual employed. Fears about sharing information should not stand in the way of safeguarding and promoting the welfare of children.

Settings should ensure that staff and volunteers (especially the DSL) who need to share 'special category data'[29] are aware the Act contains 'safeguarding of children and individuals at risk' as a processing condition that allows practitioners to share information.

Food safety

If you provide food at your setting, you must by law abide by food safety regulation and ensure the food is safe to eat. 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 will need to register. Check the Food Standards Agency website to see what applies to your setting: **Providing food at community and charity events**. **Register a food business** (this includes as a childminder and as a volunteer or charity organisation).

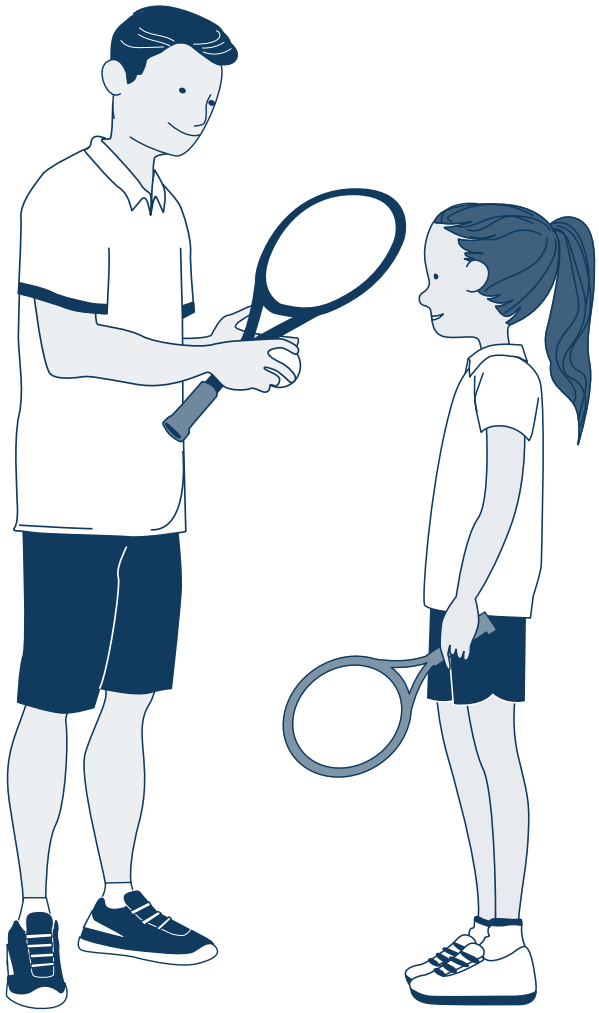
29 'Special category data' is personal data that needs more protection because it is sensitive. The GDPR defines 'special category data' as:

- personal data revealing racial or ethnic origin;
- personal data revealing political opinions;
- personal data revealing religious or philosophical beliefs;
- personal data revealing trade union membership;
- genetic data;
- biometric data (where used for identification purposes);
- data concerning health;
- data concerning a person's sex life; and
- data concerning a person's sexual orientation.

Useful resources for providers

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**.
- The Department for Education provides a **data protection toolkit for schools** that you may also find useful for your setting.



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 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** may be more relevant.
- General guidance on workplace health, safety and welfare is available on the **Health and Safety Executive's website**.
- **Information for schools** but which you may find useful for your setting is also available.
- The Department for Education 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** is available online.
- **Advice on fire safety** is available online.
- **The ABI provides online information on insurance**, and public liability insurance in particular.
- The Department for Education provides advice on **health and safety for educational visits** which settings may find useful.

If you are reading a print version of this document, you can find the digital version which includes web links to other useful resources at **https://www.gov.uk/government/collections/keeping-children-safe-in-out-of-school-settings**

Safeguarding and child protection

- The NSPCC has a number of free resources for the voluntary and community sector to set up child protection policies and procedures. It also covers safeguarding standards and guidance, specific guidance for faith communities, and signposts to training:
  - NSPCC Learning: Introductory guide to safeguarding and child protection for the voluntary and community sector (formerly 'Are they safe?)
  - NSPCC safeguarding standards and guidance (England)
  - The NSPCC's Child Protection in Sport Unit works to safeguard children in sport and has a dedicated website.
- 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.
- '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.
- 'Child sexual exploitation: definition and guide for practitioners' is DfE advice for anyone who works with children and families. The guide can help providers to identify child sexual exploitation and take appropriate action in response.
- 'Sexual violence and sexual harassment between children in schools and colleges' is DfE advice on how to minimise the risk of sexual violence and sexual harassment between children happening and what to do when it does occur. While the advice is primarily directed at schools and colleges, it may also be a useful starting point for providers.
- 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.
- 'Safeguarding children who may have been trafficked' 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. Children who are unaccompanied or have been a victim of trafficking are often at increased risk of safeguarding issues such as child criminal exploitation or child sexual exploitation.
- 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.
- More information on data protection is available online.
- https://www.thinkuknow.co.uk/ is the National Crime Agency's website for online safety resources. It has resources for various age groups from 4 to 14+, as well as for parents and carers, and people working with children.
- The Child Protection in Sport Unit has advice on how to deal with safeguarding concerns.
- The Charity Commission has guidance on safeguarding and protecting people for charities and trustees.
- For further help handling safeguarding allegations in a charity, see the Department for Digital, Culture, Media and Sport's online safeguarding tool

Suitability of staff

- The Child Protection in Sport Unit **outlines safe recruitment and selection procedures** online.
- 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 & Co have produced **guidance on dealing with low-level concerns about adults** to safeguard children.

Miscellaneous

- The Charity Commission has a **dedicated website**.
- The **Charity Governance Code** is available online.
- The **Charity Ethical Principles** are available online.
- HMRC has a **dedicated website**.
- You can search for your **local authority's website** online.

Glossary

charity	an institution established exclusively for charitable purposes operating for the public benefit.
Charity Commission for England and Wales	an independent non-ministerial government department responsible for the regulation of charities in England and Wales.
child criminal exploitation (CCE)	This occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child into any criminal activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial or other advantage of the perpetrator or facilitator and/or (c) through violence or the threat of violence. CCE is commonly associated with county lines (being coerced into moving drugs and/or money between locations). However, it also includes children forced to commit criminal acts e.g. theft and violence. The victim may have been criminally exploited even if the activity appears consensual. CCE does not always involve physical contact; it can also occur through the use of technology.
child sexual exploitation (CSE)	is a type of child sexual abuse. When a child or young person is exploited, they're given things, like gifts, drugs, money, status and affection, in exchange for performing sexual activities. Children and young people are often tricked into believing they're in a loving and consensual relationship. They may trust their abuser and not understand that they're being abused.
Disclosure and Barring Service (DBS)	a non-departmental public body sponsored by the Home Office responsible for carrying out criminal records checks to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children.
employers' liability insurance	insurance that will help you pay compensation if an employee is injured or becomes ill because of the work they do for you.

Health and Safety Executive (HSE)	the UK's independent watchdog for work-related health, safety and illness.
HM Revenue and Customs	the UK's tax authority responsible for making sure money is available to fund public services and for providing targeted financial support.
Home Office	a government department responsible for domestic affairs, including immigration, and sponsorship of the Disclosure and Barring Service.
local authority	local government responsible for providing services in the area, e.g. planning, education, fire and public safety, libraries and waste management.
local authority children's social care team or service	will often provide a wide range of services to support children and their parents and is the main point of contact for safeguarding and welfare concerns about children. as the team can clarify the process for making safeguarding referrals to the local authority. the team also provides advice or support (or both) on the referral process.
policy	the agreed rules or principles explaining what you should always do or say in a particular situation. Normally these should be written down and everyone in your organisation should know about them.
public liability/indemnity insurance	insurance that covers legal costs and compensation payments resulting from injuries or property damage to your clients, contractors or members of the public which was caused by an individual or their employees.
regulated activity relating to children	activity relating to children as defined in Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 (as amended), see **this document**.
staff	for the purpose of this code, a paid employee or unpaid worker or volunteer that is engaged by an out-of-school settings provider.
supplementary school	for the purpose of this code, an out-of-school-hours setting for children offering support in subjects such as mother-tongue language classes, religious studies, cultural studies or national curriculum subjects