



Safer recruitment training for independent schools

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What we will cover today

- The safer recruitment process: from planning a vacancy to offer of employment
- Pre-appointment checks and the SCR
- After employment commences
- Dealing with a safeguarding allegation against a member of staff



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The safer recruitment regulatory framework

- National Minimum Standards for Boarding Schools (**NMS**) - March 2002 / 2010 / 2011 / 2013 / **2015**
- The Education (Independent School Standards) (England) Regulations 2003 / 2004 / 2007 / 2010 / **2014 (ISSRs)**
- Safeguarding Children: Safer Recruitment and Selection in Education Settings – 2005
- Safeguarding Children and Safer Recruitment in Education (**SCSRE**) - January 2007
- Safeguarding Vulnerable Groups Act 2006
- Keeping Children Safe in Education (**KCSIE**) – 3 April 2014 / March 2015 / July 2015 / September 2016 / September 2018 / September 2019 / 1 September 2020/ **1 September 2021**
- Disqualification Under the Childcare Act (**DUCA**) – 26 February 2015
- ISI Commentary on the Regulatory Requirements – September 2021



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Status of training

- SCSRE – one member of interview panel to complete accredited training
- KCSIE – training does not need to be DfE approved. No accredited training
- KCSIE para 190:
Governing bodies and proprietors should ensure that those involved with the recruitment and employment of staff to work with children have received appropriate safer recruitment training, the substance of which should at a minimum cover the content of this part (Part three) of this guidance'
- VWV Certificate of Attendance



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Keeping Children Safe in Education

- Do you have to follow it?
- All schools and colleges in England “**must have regard to it** when carrying out duties to safeguard and promote the welfare of children”
- KCSIE page 3:
“We use the terms “must” and “should” throughout the guidance. We use the term “must” when the person in question is legally required to do something and “should” when the advice set out should be followed unless there is good reason not to.”
- Comply unless exceptional circumstances arise



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September 2021 changes to KCSIE

- December 2020 to March 2021: consultation on changes to KCSIE for September 2021
- Came into force 1 September 2021
- Substantial changes to Part 3 - no new recruitment checks
- More detailed guidance on the recruitment and selection process:
 - adverts
 - application forms
 - shortlisting
 - interview and selection
- Similar in approach to Safeguarding Children and Safer Recruitment in Education



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KCSIE Part 3

Safer Recruitment



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Safer recruitment: Whose responsibility?

KCSIE paragraph 189:

*'It is vital that **governing bodies and proprietors** create a culture that safeguards and promotes the welfare of children in their school or college. As part of this culture, it is important that they **adopt robust recruitment procedures that deter and prevent people who are unsuitable** to work with children from applying for or securing employment, or volunteering opportunities in schools and colleges.'*



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Safer recruitment: Whose responsibility?

KCSIE paragraph 324:

'Safer recruitment is not just about carrying out the right DBS checks...'

'Similarly safeguarding should not be limited to recruitment procedures..'

*'Good safeguarding requires a continuing commitment from **governing bodies and proprietors, and all staff** to ensure the safety and welfare of children is embedded in all of the organisation's processes and procedures, and consequentially enshrined in its ethos.*

This requires a coordinated whole school approach to safeguarding.



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Steps in the safer recruitment process

- Identifying a need to recruit
- Planning the vacancy:
 - job description
 - person specification
- Advertising
- Reviewing applications and shortlisting
- Interview and selection
- Offer of employment
- Pre-employment checks
- Single Central Register



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Serious case review: Features of a safe culture

Southbank International School: Dame Moira Gibb - 20 January 2016

- An explicit safeguarding culture and ethos
- Clear policies and procedures which make it clear to staff what is expected at every level
- Courageous management who are prepared to act on concerns
- Staff who are prepared to challenge and raise concerns
- Children and young people having a voice and mechanisms for raising concerns which are taken seriously



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Serious case review: Criticisms of the recruitment procedure

- The role was not advertised
- No job description or person specification
- An application form was not completed – reliance placed on an unsolicited CV
- A commitment to safeguarding was not mentioned in the recruitment materials or invitation to interview
- References not taken up until role offered (months after interview)
- Interview conducted by the Principal alone
- Too much reliance placed on on-line safer recruitment training



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Job description and person specification

- Before advertising, plan the vacancy by drafting a JD and PS
- Paragraph 192 of KCSIE states that this should include:
 - the skills, abilities and experience required for the post;
 - the attitude and behaviours that the School requires of the post holder;
 - the School's safeguarding requirements i.e. to what extent will the role involve contact with children **and will it amount to regulated activity**



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Application form

- **What should it include? Paragraph 196 of KCSIE**
 - personal details including current and former names and NI number
 - date of birth
 - full employment history since leaving school and explanation for any gaps
 - details of present or last employment and reasons for leaving
 - qualifications (awarding body and date)
 - a statement of the personal qualities and experience the applicant believes are relevant to their suitability for the post
 - details of referees
 - **questions about health?**



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Application form (cont'd)

- **KCSIE paragraph 194:** where the role involves regulated activity with children the application form should include a statement that it is an offence to apply for the role if the applicant is barred from working with children
- **KCSIE paragraph 198:** *'shortlisted candidates should be asked to complete a self-declaration of their criminal record or information that would make them unsuitable to work with children'.*
- **KCSIE paragraph 199:** *'This information should only be requested from applicants who have been shortlisted. The information should not be requested in the application form to decide who should be shortlisted.'*



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Application form (cont'd)

- **So can any of the following now be asked in the application form?**
 - questions about criminal records?
 - whether the applicant is barred from working with children?
 - whether the applicant is prohibited from teaching or management?
 - whether the applicant is disqualified from providing childcare
- Why use application forms?
- Can you accept CVs?



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Shortlisted candidates suitability form

- KCSIE paragraph 198: ask shortlisted candidates to declare the following:
 - details of their criminal records history (explanation of spent convictions and DBS filtering rules);
 - whether they are barred from working with children;
 - whether they are prohibited from teaching;
 - whether they are prohibited from management;
 - whether they are subject to a section 142 direction;
 - whether they are known to the police or children's social care; and
 - whether they are disqualified from providing childcare
- Provide further details if answering yes to any of the above
- As this is about suitability all shortlisted candidates should answer all questions even if not relevant to the role



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Advertising

- Once the vacancy is planned it can be advertised
- KCSIE paragraph 193:
 - a statement about the School's commitment to safeguarding and promoting the welfare of children
 - a statement that safeguarding checks will be undertaken on all successful candidates
 - the safeguarding responsibilities of the post (as per the JD and PS)
 - whether the post is exempt from the Rehabilitation of Offenders Act 1974 (all posts that amount to regulated activity will be)
- Purpose?



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Candidate Information Pack

- Paragraph 3.29 of SCSRE
 - Application form
 - Job Description
 - Person Specification
 - Recruitment Policy
 - Child Protection Policy (also paragraph 195 of KCSIE)
 - Policy on recruitment of ex-offenders (also paragraph 195 of KCSIE)
 - Code of conduct for staff?
- Serious case review from 2016 restated that this is good practice



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Shortlisting

- Due diligence on your candidates
- **Aim: systematic approach that is applied consistently**
 - document the process: Shortlisting Assessment Form
 - assess against the same shortlisting criteria
- Paragraph 202 of KCSIE:
 - at least two people carry out the shortlisting exercise;
 - those people are ideally involved in the interview;
 - shortlisting should involve consideration of inconsistencies in the information provided, look for gaps in employment history and review the reasons for them; and
 - explore all potential concerns with an application.



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Shortlisting (cont'd)

- Other safeguarding and suitability aspects to explore:
 - name changes
 - time spent overseas
 - moving from a senior role to a more junior role
 - frequent job changes
- **Potential claims from unsuccessful applicants**
- **Data protection:**
 - subject access requests
 - document retention: unsuccessful candidates
 - document retention: successful candidates



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Invitation to interview

- **What should it cover?**
- How the interview process will be conducted
- Reasonable adjustments
- Documentation for starting the vetting process:
 - evidence of identity
 - evidence of right to work in the UK
 - evidence of qualifications
- Interview conditional upon these being produced



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References

- **KCSIE paragraph 203:** *'Schools and colleges should obtain references before interview, this allows any concerns raised to be explored further with the referee and taken up with the candidate at interview'*
- Does this have to be followed?
- Raised in consultation



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References (cont'd)

KCSIE para 204 – new wording on references

- schools should not rely on applicants to obtain their own reference;
- schools should ensure that a reference is received from the applicant's current employer and is completed by a senior person;
- where the reference is from a school, the Head of that school should confirm that the reference is accurate in respect of disciplinary investigations;
 - schools should always verify information with the person who provided the reference;
 - when schools provide a reference to another school, it should confirm whether they are satisfied with the applicant's suitability to work with children and provide the facts of any substantiated safeguarding allegations



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References (cont'd)

Other issues to consider

- Who is an appropriate referee?
- References received electronically
- Are purely factual references acceptable?
- What is a satisfactory reference?
- Disclosure of the reference



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Checks completed by time of interview

1. Identity
2. Right to work in the UK
3. Qualifications or experience
4. Education and employment history
5. References
6. A self-declaration of:
 - any prohibitions or disqualification;
 - criminal records history;
 - whether named on the barred list



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Interview

“The interview and recruitment process which led to Huntley’s appointment at Soham Village College was flawed, as the school principal admitted. This only goes to reinforce the findings of successive reports about the importance of the selection process...”

(Bichard Inquiry Report, Paragraph 58)



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Serious case review: What to cover at interview

Four key areas common amongst child abusers in professional settings which could be explored at interview by value based techniques:

1. Awareness of professional boundaries;
2. Appropriateness of relationships with children;
3. Commitment to and evidence of taking action to protect children; and
4. Self-awareness



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‘Categories’ of organisational sex offenders

Report for the **IICSA Residential Schools Investigation – Marcus Erooga (Aug 2019)**

- **Preferential:** conscious desire to sexually abuse children and not easily deterred
- **Opportunistic:** motivated to abuse, will do so if potential victims are available, vulnerable and organisation inadvertently facilitates, or fails to prevent, their behaviour
- **Situational:** propensity to abuse is previously unknown or unacknowledged, abuse may represent an aberration in otherwise law abiding life
- Focus on those who are motivated to commit abuse tends to inform the general approach in policies and training



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Scope of the interview

- **KCSIE paragraphs 206-208** – areas to cover:
 - what attracted the candidate to the post;
 - their motivation for working with children;
 - their skills and experience of working with children (as relevant to the role);
 - probing of any gaps in education or employment history;
 - any implication that adults and children are equal;
 - lack of recognition or understanding that children are vulnerable;
 - inappropriate idealisation of children;
 - understanding of professional boundaries;
 - indicators of negative safeguarding behaviours;
 - past disciplinary action or safeguarding allegations



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Questioning skills

- Open questions – how, what, tell me..?
- Probing questions – following up
- Closed questions – not too many
- Leading questions – avoid these
- Multiple questions – be wary
- Use a range of open, probing and closed questions



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Decision making

- Complete the assessment of each candidate promptly using the agreed criteria
- Be objective about the candidate and focus on their ability to do the job
- Confer with fellow members of the interview panel as soon as possible after each interview
- Review and agree overall outcome



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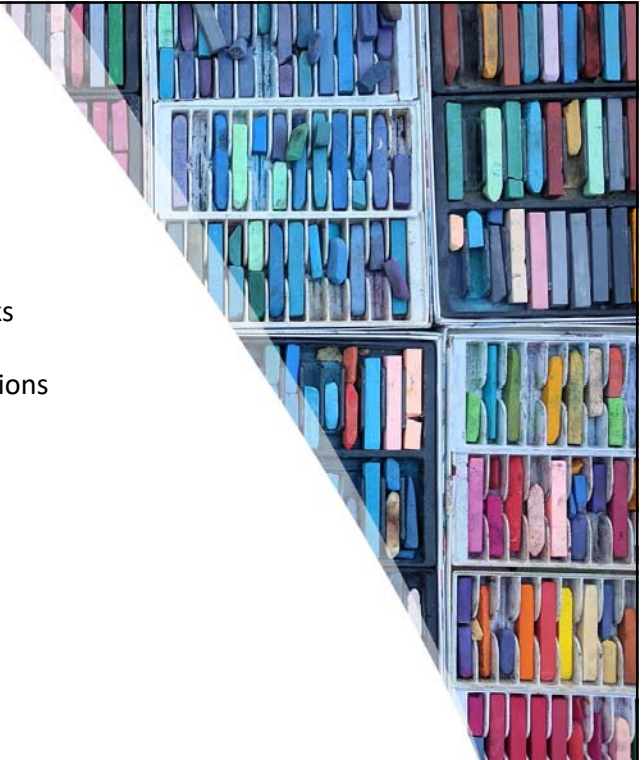


Interview Assessment Form

- Purpose - objective justification for decision to appoint or reject
- Evidence for personnel file and completion of the SCR
- Risk management
- Retention
- Disclosure




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Offer of employment letter

- Set out headline terms of offer
- KCSIE: offer must be conditional upon satisfactory completion of all required pre-appointment checks
- Why a conditional offer?
- Take care over the drafting of the specified conditions



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Pre-appointment checks



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The requirement to carry out pre-appointment checks

ISSRs, Part 4, paragraph 18

*"The standard in this paragraph is met if... the **proprietor carries out appropriate checks**...and in the light of the information from the checks...the **proprietor considers** that the **person is suitable for the position** to which the person is appointed"*



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The requirement to keep a Single Central Register

KCSIE - paragraph 250

'Schools and colleges must maintain a single central record of pre-appointment checks, referred to in the Regulations as the register and more commonly known as the single central record'

ISSRs, Part 4 paragraph 21

*"The standard in this paragraph is met if the **proprietor keeps a register which shows such of the information referred to in sub-paragraphs (3) to (7) as is applicable to the school in question**"*



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Format of the SCR

What is the legal requirement for the format of the SCR?

- ISSRs Part 4, paragraph 21(2)
"The register...may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form"
- Any format is therefore permitted
- However – it must contain the required information to be compliant
- Single biggest source of inspection failure




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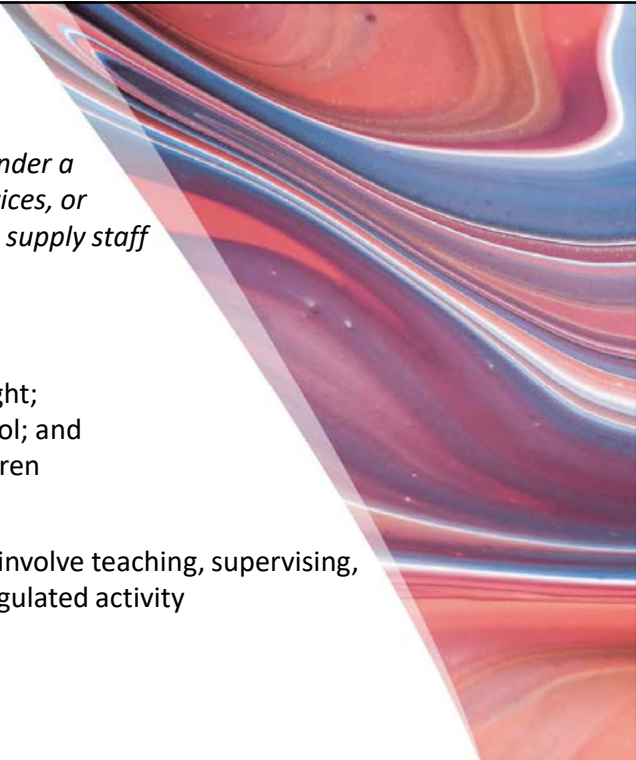


How do you complete your SCR?

- Separate entry for each individual
- Separate entry for each check
- What do the ISSRs 2014 say?
 - whether each check was completed: and
 - the date on which the check was completed or certificate received
- The use of 'N/A'
- Who completed the check?
- Notes
- What if you have no evidence about whether a check was completed?




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Key definitions

- **Staff:** *“any person working at a school, whether under a contract of employment, under a contract for services, or otherwise than under a contract but not including supply staff or volunteers”*
- **Regulated activity:**
 - paid work at a school;
 - carried out frequently, intensively or overnight;
 - in connection with the purposes of the school; and
 - giving the opportunity for contact with children
- Voluntary work must be unsupervised
- Temporary or occasional paid work that does not involve teaching, supervising, caring for or driving a vehicle for children = not regulated activity



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Key definitions (cont...)

Supervision (KCSIE Annex F):

- *“by a person who is in regulated activity;*
- *regular and day to day; and*
- *reasonable in all the circumstances to ensure the protection of children”*

Factors to consider when deciding whether supervision is reasonable:

- ages of the children, including whether their ages differ widely;
- number of children that the individual is working with;
- whether other workers are helping to look after the children;
- the individual’s opportunity for contact with children;
- how vulnerable the children are; and
- how many individuals would be supervised by each supervising worker



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Who to include on your SCR

Must

- ISSRs: staff, supply staff and members of the proprietor body

What about:

- Self-employed individuals
- Staff employed by a third party
- Volunteers
- Leavers



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Required checks for staff appointments

- | | |
|----------------------------|---------------------------------|
| 1. Identity | 8. Children's Barred List |
| 2. Right to work in the UK | 9. Overseas checks |
| 3. Qualifications | 10. Overseas teaching sanctions |
| 4. Employment history | 11. Prohibition from teaching |
| 5. References | 12. Prohibition from management |
| 6. Medical fitness | 13. Section 142 direction |
| 7. Enhanced DBS disclosure | 14. Childcare disqualification |



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Required checks for appointments to the proprietor body

1. Identity
2. Right to work in the UK
3. Enhanced DBS disclosure
4. Children's Barred List
5. Overseas checks
6. Prohibition from management
7. Section 142 direction

*Any other role specific check



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Required checks for volunteers

“Volunteer” means a person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative”

(Police Act 1997 (Criminal Records) Regulations 2002)

1. Identity
2. Children’s Barred List
3. Enhanced DBS disclosure
4. Any other role specific check e.g. childcare disqualification



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Required checks for supply staff

- | | |
|----------------------------|---------------------------------|
| 1. Identity | 8. Children’s Barred List |
| 2. Right to work in the UK | 9. Overseas checks |
| 3. Qualifications | 10. Overseas teaching sanctions |
| 4. Employment history | 11. Prohibition from teaching |
| 5. References | 12. Prohibition from management |
| 6. Medical fitness | 13. Section 142 direction |
| 7. Enhanced DBS disclosure | 14. Childcare disqualification |



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Supply staff

- Who are supply staff?
- Who is responsible for carrying out the checks?
- Identity checking
- DBS certificate
- How do you record the checks on the SCR?



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Contractors

How should contractors be treated for compliance purposes?

- ISSRs Regulation 2: “Staff” means: **“any person working at a school, whether under a contract of employment, under a contract for services, or otherwise than under a contract but not including supply staff or volunteers”**

If contractors are staff which checks are required?

- basic legal position – all checks apply;
- but see KCSIE (paragraph 273): ‘Schools and colleges should ensure that any contractor, or any employee of the contractor, who is to work at the school or college, has been subject to the appropriate level of DBS check’

Suggested approach - divide into two groups:

- regular and long term work; or
- temporary or occasional work



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Checks for regular contractors

- | | |
|----------------------------|---------------------------------|
| 1. Identity | 8. Children's Barred List |
| 2. Right to work in the UK | 9. Overseas checks |
| 3. Qualifications | 10. Overseas teaching sanctions |
| 4. Employment history | 11. Prohibition from teaching |
| 5. References | 12. Prohibition from management |
| 6. Medical fitness | 13. Section 142 direction |
| 7. Enhanced DBS disclosure | 14. Childcare disqualification |



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Checks for less frequent contractors

1. Identity
2. Enhanced DBS disclosure
3. Children's Barred List

- Any other checks carried out at the discretion of the school, based on assessment of safeguarding risk
- Temporary or occasional paid work which is not a specified activity with children i.e. teaching, supervising, caring for or providing advice is not regulated activity and no checks may be required (school has discretion in this respect but must apply it reasonably)



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Contractors (cont'd)

- Who is responsible for carrying out the checks on contractors?
- Seeing the DBS certificate
- KCSIE para 272: where schools and colleges use contractors to provide services, they should set out their safeguarding requirements in the contract with the third party organisation
- **How do you record the checks on the SCR?**



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Checks on visitors

- No checks required
- No power to request DBS or Children's Barred List checks
- Avoid unsupervised access to children
- KCSIE: use professional judgment regarding extent to which visitors are escorted or supervised
- **Do not include on the SCR**



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Which checks must be included on your SCR?

1. Identity
2. Right to work in the UK
3. Children's Barred List
4. DBS
5. Qualifications
6. Prohibition from teaching
7. Section 142 direction
8. Prohibition from management
9. Overseas checks

What about: references, employment history, medical fitness, childcare disqualification, overseas teaching sanctions?



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Keeping evidence of checks

- ISSRs require schools to keep a SCR
- ISSRs do not require schools to retain any other evidence that checks completed
- KCSIE (para 259) requires retention of evidence that following checks completed:
 - identity;
 - right to work in the UK;
 - qualifications
- Education and Skills Act 2008 section 110 – gives inspectors a right to inspect and take copies of any records kept by a school that are required for the purposes of inspection
- SCR is primary source of evidence that checks carried out



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By when must checks be completed?

Staff

- Before “appointment” i.e. before first day of work
- DBS before or as soon as practicable after appointment

Supply staff

- All checks including DBS before work starts

Members of proprietor body

- Before appointment
- DBS and overseas checks before or as soon as practicable after appointment

Volunteers

- Before commencing any duties (unless supervised)

What does this mean for compliance?



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Re-checking staff

- Paragraph 327 KCSIE: *‘There are limited circumstances where schools and colleges will need to carry out new checks on existing staff. These are when...there has been a break in service of 12 weeks or more.’*
- **Is this correct?**
- Checks in the ISSRs apply when a person is ‘appointed’
- Check the contractual position and decide is it continuing or has it been terminated/come to an end
- No checks required unless being appointed/re-appointed
- Analogous to return from absence for maternity leave or long term ill health
- 12 week period only relevant to DBS checks
- Risk assessment and some checks even if not required?



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Inspection of the SCR

ISI Handbook (September 2021) paragraph 635

- “It is **possible in the case of older appointments that evidence will not be available to support the production of a fully complete SCR**”; so
- “inspectors will look to confirm that **several recent appointments have been correctly completed and recorded**”; and
- “that **reasonable efforts have been made to complete previously omitted checks that were legally required at the time of appointment**”



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What is required for a compliant SCR?

Two conditions must be met (ISI Handbook paragraph 636)

- “the **school must have identified the issues outside of the inspection process and taken appropriate steps to fill gaps** so far as practicable”; and
- “there must be a **clear track record in relation to recent appointments of properly completed checks** demonstrating that the current recruitment process is effective and thorough”



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Materiality in inspection judgments

ISI Commentary - paragraph 22:

- ‘inspectors should consider the nature and extent of any areas of weakness in compliance and the **effect or potential effect on pupils**’
- ‘a number of small deficiencies could be **indicative of poor systems and/or a lax approach to compliance** and could be judged in context to indicate that one or more standards have not been met’
- Is there an ‘**underlying systemic issue**’ that should be reported?



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Tips for a critical review of the SCR – gaps

1. Know what checks are required for each person, according to start date and role
2. Check the start date
3. Are there entries in each box / are there any blanks?
4. If there is a blank, was the check a requirement for that person?
5. If No: enter “N/A” in the box
6. If Yes:
 - I. review the file; and/or
 - II. discuss with relevant staff
7. Consider remedial action
8. Repeat



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Tips for a critical review of the SCR – late checks

1. Were any checks completed after the start date?
2. If Yes: Is the start date correct?
3. If Yes: Was the check a requirement for that person?
4. If No: it does not matter that it was completed late - enter explanation in the 'Notes' column
5. If Yes:
 - I. is there an explanation in the 'Notes' column?
 - II. review the file; and/or
 - III. discuss with relevant staff
6. **Consider remedial action**
7. **REPEAT**



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Checks and the SCR in detail



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Identity

Who: Staff, supply staff, members of proprietor body, contractors and volunteers

Since: 1 September 2003

Required for SCR: Yes

SCR entries: Date of check (required); initials of checker (optional); details of evidence checked (optional)

Evidence on file:

- A copy of the documents used to check identity (**required - KCSIE para 259**)
- What documentation? Follow DBS identity checking guidance
 - identity documents e.g. passport / residence permit / birth certificate / driving licence; and
 - financial & social history documents e.g. bank / mortgage / Council Tax statements
- Original birth certificate (para 213 KCSIE)



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Right to work in the UK

Who:

- **ISSRs** – staff, supply staff and members of proprietor body
- **Immigration Act:** all employees

Since: 1 May 2007

Required for SCR: Yes

SCR entries: Date of check (required); initials of checker (optional); details of evidence checked (optional)

Evidence on file: A copy of the documents used to establish RTW (**required - KCSIE para 259**)



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Qualifications

Who: Staff, supply staff and regular contractors

Since: 1 September 2003

Which qualifications: “*appropriate*” qualifications

Required for SCR: Yes

SCR entries:

- Date of check (required); initials of checker (optional); details of evidence checked (optional); or
- N/A if no qualification required or relied upon

Evidence on file: a copy of the documents should be kept i.e. certificate, diploma or letter from the awarding body (**required - KCSIE paragraph 259**)

Does the SCR entry match the file?



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DBS disclosures

Who: Staff, supply staff, members of proprietor body, contractors and volunteers

Since: 1 September 2003

If: The person is eligible for a DBS check i.e. they carry out regulated activity

Required for SCR: Yes

SCR entries:

- Date the check was made (required); initials of checker (optional)
- Date original certificate seen by the school (required)
- Certificate number(optional)
- N/A – if not working in regulated activity (recommended); or
- N/A – if the “three month rule” applies (recommended)



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DBS disclosures (cont'd)

Key point: must see the DBS certificate and record this date on the SCR. Unchecked until it is seen. Clearance from umbrella body alone is not enough

Commencing work prior to receipt of the DBS disclosure certificate

- All other checks completed
- Risk assessments
- Supervision

Evidence on file:

- No requirement to retain any evidence
- Options:
 - DBS certificates?
 - Written risk assessment
 - Documents detailing supervision



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Children's barred list checks

Who: Staff, supply staff, members of proprietor body, contractors, and volunteers – if working in regulated activity

Since: 2 October 2000 with retrospective effect (Protection of Children Act)

Required for SCR: Yes

SCR entries:

- Date of check (required); initials of checker (optional);
- N/A if not in regulated activity (recommended) / note explaining why (optional)

Evidence on file:

- No requirement to keep any evidence
- **Options:** entry on recruitment checklist / copy of print out from Teacher Services System (TSS) / file note



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Overseas checks

Who:

- Staff, supply staff, members of proprietor body and regular contractors


Since: 17 January 2005

If:

- that person is living or has lived outside the United Kingdom; and
- as a consequence, obtaining a DBS certificate is insufficient to establish their suitability to work in a school

Options

- 3 / 6 months or more in past 5 years;
- 3 / 6 months or more in past 10 years;
- every country in which lived or worked; or

 each case individually

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Overseas checks (cont'd)

Which checks:

- such **further checks** are made **as the proprietor/governing body considers appropriate**;
- having **regard to any guidance** issued by the Secretary of State

The Guidance: ""Guidance on the application process for criminal records checks overseas"

Options:

- official government evidence i.e. criminal records checks/police checks/certificate of good conduct;
- references

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Overseas checks (cont'd)

Required for SCR: Yes

SCR entries:

- Date of check (required); initials of checker (optional)
- N/A if you decide they are not necessary (recommended)
- N/A if the “three month rule” applies (required)

Evidence on file:

- No requirement to keep any evidence
- **Options:** copy of overseas criminal records check or certificate of good conduct; reference(s) from overseas employment
- Explanatory note - if lived overseas but checks deemed not necessary (optional)

By when do overseas checks have to be completed?

Can you appoint if no information is available?



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Overseas teaching sanctions

- Formerly EEA teaching sanction check - carried out through the TSS
- Check not possible with effect from 1 January 2021, due to UK leaving EU
- **Now:** paragraph 262 KCSIE - schools **could** obtain a letter (via the applicant) from the professional regulating authority in the country (or countries) in which the applicant has worked confirming that they have not imposed any sanctions or restrictions, and or that they are aware of any reason why they may be unsuitable to teach
- **Who:** teaching staff appointments who have worked as a teacher overseas, at any time, in any country
- **Since:** 18 January 2021



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Overseas teaching sanctions (cont'd)

- Carried out in addition to other overseas checks
- Why are you checking this?
- Retain evidence of attempts to obtain

Required for SCR: No (but recommended)

SCR entries:

- Date of check (recommended); initials of checker (optional)
- N/A for non-teaching appointments or if not worked as a teacher overseas
- Use the EEA teaching sanction or overseas column

Evidence on file:

- No requirement to retain any evidence
- **Options:** letter from the regulator of the teaching profession; evidence to show that attempts were made to obtain the letter (recommended)



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References

Who: KCSIE: staff, supply staff and regular contractors

Since: 1 September 2003

Required for SCR: No (but recommended)

SCR entries:

- Date each reference deemed satisfactory (recommended); initials of the checker (optional)

Evidence on file:

- No requirement to retain any evidence
- **Options:**
 - copy of each reference;
 - file notes to evidence attempts to chase references



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Employment history

Who: KCSIE: staff, supply staff and regular contractors

Since: 1 September 2003

What are you checking?

Required for SCR: No (but recommended)

SCR entries:

- Date of check (recommended); initials of the checker (optional)

Evidence on file:

- No requirement to retain any evidence
- **Options:**
 - application form with a full employment history;
 - written record explaining any gaps in employment history



75

Medical fitness

Who: Staff, supply staff and regular contractors

Since: 1 September 2003

How to check: no prescribed method

Required for SCR: No (but recommended)

SCR entries:

- Date of check (recommended); initials of checker (optional)

Evidence on file:

- No requirement to retain any evidence
- **Options:**
 - self-declaration of medical fitness
 - health questionnaire; or
 - other evidence confirming physically and mentally fit for the role



76

Prohibition from teaching

Who: Those who carry out “teaching work”

Since: 1 April 2012 – all schools

Each of the following activities is teaching work:

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

Not if the work is supervised by a qualified teacher or other person nominated by the Head

What is the purpose of the check?



77

Prohibition from teaching (cont'd)

Required for SCR: Yes

SCR entries:

- Date of check (required); initials of checker (optional)
- N/A if not carrying out “teaching work” or appointed before 1 April 2012 (recommended)

Evidence on file:

- No requirement to retain any evidence
- **Options:**
 - print out of information from TSS (for those with a TRN); or
 - note confirming the check completed (for those without a TRN)



78

Prohibition from management (section 128 directions)

Who:

- Those involved in the management of the School e.g. Head, all members of Senior Leadership Team, department heads, governors
- Appointed from 12 August 2015 onwards
- Internal promotions from May 2018

How: TSS or DBS certificate

Required for SCR: Yes

SCR entries:

- Date of check (required); initials of checker (optional);
- N/A for all other appointments (recommended)

Evidence on file:

- No requirement to retain any evidence
- **Options:** print out of information from TSS or note confirming no information in DBS check



79

Section 142 directions

What:

- Prohibition or restriction issued by secretary of state which prevents or restricts a person from:
 - providing education at a school
 - taking part in the management of an independent school
 - working in regular contact with children

Who: anyone undertaking the above work

Since:

- 1 September 2003
- No longer issued but must still check



80

Section 142 directions (cont'd)

How to check:

- DBS certificate; or
- TSS

Required for SCR: Yes (since 5 January 2015)

How to record on the SCR: use the DBS column

What evidence should be on file:

- No requirement to retain any evidence
- **Options:**
 - Note confirming that no information contained on DBS disclosure
 - Print out of information from TSS or note to confirm when checked



81

Childcare disqualification

See: 'Disqualification Under the Childcare Act 2006'

Who: Those who provide "childcare" in Early Years Provision or Later Years Provision or are directly involved in its management

Since: 26 March 2015

- **EYP** = providing education in nursery and reception classes and/or any supervised activity e.g. breakfast clubs, lunchtime supervision and after school care during and outside of school hours
- **LYP** = childcare provided by the school outside of school hours for children who are above reception age but who have not attained the age of eight (not including extended school hours for co-curricular learning activities, such as a school's choir or sports teams)



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Childcare disqualification (cont'd)

Who to check: further information

1. Those in **scope = must be checked** i.e. teachers and teaching assistants in EYP / those running before and after school clubs in EYP and LYP / Head
2. Those **out of scope = no check required** i.e. caretakers, cleaners, drivers, transport escorts, medical staff, office staff
3. Those **occasionally in scope = risk assess** whether to check by reference to duties and frequency i.e. other teachers & teaching assistants, contractors, supply staff, volunteers, governors, members of the SLT



83

Childcare disqualification (cont'd)

How to check:

- Successful candidates for relevant roles to self-declare any disqualification grounds during recruitment
- Existing staff in scope to self-declare any relevant grounds
- 'By association' element ceased to apply to schools with effect from 31 August 2018
 - records for household members should be destroyed
- Disqualified person applies for a waiver from Ofsted
- On-going duty on staff to update about change in circumstances – make this contractual



84

Childcare disqualification (cont'd)

Required for SCR: No (but recommended where applicable)

SCR entries

- Date of check (recommended); initials of checker (optional)
- N/A if not “in scope”

Evidence on file:

- No requirement to retain any evidence
- Options:
 - self-declaration form
 - waiver from Ofsted confirming a disqualification was waived (if relevant)




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Key principles


1. Review the SCR frequently
2. Governor oversight on a termly basis
3. Identify issues outside of the inspection process and take **appropriate steps** to fill gaps or explain checks completed late
4. Establish how long your clear track record of properly completed appointments is
5. Review whether you are following your own recruitment procedures
6. Take advice
7. External audit of SCR and files



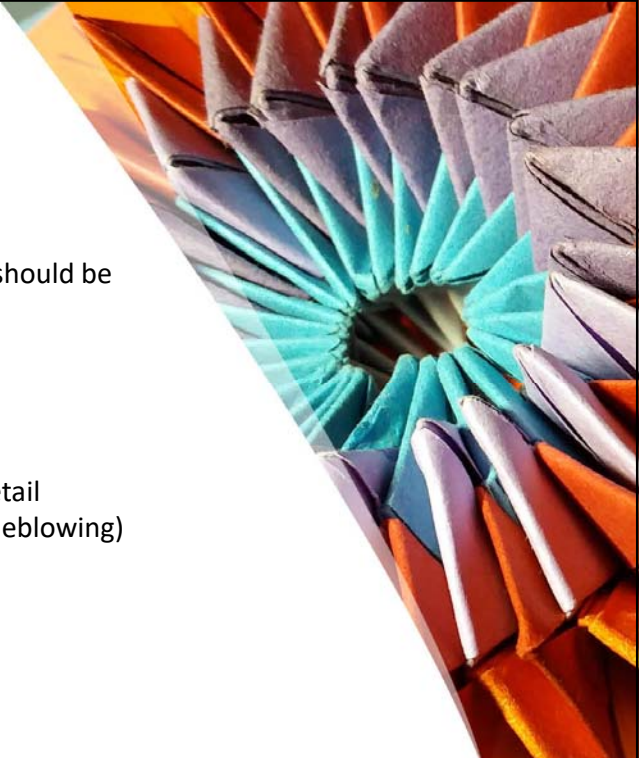
86



After the appointment and dealing with a safeguarding allegation




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Safeguarding induction

- Introduction to your culture and ethos
- **KCSIE para 13:** all staff, governors and volunteers should be made aware of:
 - KCSIE Part 1
 - the child protection policy
 - staff code of conduct
 - pupil behaviour policy
 - DSL and DDSL – role, identity and contact detail
 - employment policies and procedures (whistleblowing)
- Induction checklist



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Code of conduct

- All schools required to have a Staff Code of Conduct
- Serious Case Review: studies have found reduced likelihood of abuse where organisational messages and rules are clear and consistent
- Cover what is expected and what is not permitted in terms of behaviour



89

Code of conduct (cont'd)

Key elements:

- a set of general guiding principles
- guidance on staff / pupil relationships
- meetings with pupils
- language and appearance
- guidance on restraint and physical contact
- conduct outside of school
- communication with pupils- use of social media
- acceptable use of technologies
- FGM
- the prevent duty



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The benefits of a code of conduct

- Sets clear expectations on behaviour
- Allows colleagues to better identify concerning behaviours and to report them
- Marcus Erooga IICSA report:
 - a key element of any abuse process will be boundary violation
 - the safest environments for children are organisations where boundaries are considered important and adhered to in every aspect of staff performance
- Very useful in disciplinary procedures



91

Identifying harm

Children Act 1989: section 31(9) – Care and supervision orders:

- *“harm” means ill-treatment or the impairment of health or development [including, for example, impairment suffered from seeing or hearing the ill-treatment of another]*
- *“health” means physical or mental health; and*
- *“ill-treatment” includes sexual abuse and forms of ill-treatment which are not physical”*

SVGA 2006 (Explanatory Note): *‘The term “harm” is used in relation to the thresholds for barring and for the duties to refer information to the IBB. The term is not defined in the legislation as it is intended to take its normal, everyday meaning’*



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KCSIE Part 1: What staff should do if they have concerns about a member of staff

- **Para 74:** concern or allegation made about a colleague (including supply staff and volunteers) that they pose a risk of harm to children should be referred to the Head or Principal
- Concerns about the Head or Principal refer to the Chair of Governors, chair of the management committee or proprietor
- Concerns about a sole proprietor or conflict of interest in reporting to the Head should be reported to the LADO
- Follow the procedure in Part 4 of KCSIE



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Facets of a safeguarding allegation



94



Case study – Part 1

A teacher, Mr B, is seen frequently walking around the school grounds with the same Year 12 pupil. The contact appears to be social rather than professional in contravention of the staff code of conduct.

Other staff are concerned about the frequency and nature of the contact.

95

Dealing with a safeguarding allegation

Does Part 4 of KCSIE apply?

The Part 4 threshold - must be followed if alleged that a member of staff has:

- behaved in a way which has harmed, or may have harmed a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates they would pose a risk of harm; or
- behaved or may have behaved in a way that indicates they may not be suitable to work with children



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Low level concerns

- Schools should have policies and processes to deal with concerns/allegations) which do not meet the harm threshold
- What is a low level concern? KCSIE para 409 & 410:
 - behaviour inconsistent with code of conduct but not enough to meet allegations of harm threshold
 - it is crucial that any such concerns are shared responsibly and with the right person, recorded and dealt with appropriately
- Schools should set out their low-level concerns policy within their staff code of conduct and safeguarding policies



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Case study – Part 2

Mr B is spoken with and is shocked by the complaint. He says that the pupil needed additional pastoral support due to personal circumstances, that she had latched on to him and that he was only trying to be supportive.

When the pupil is spoken with she portrays this as a friendship and does not consider it inappropriate.

The Head decides that the School email system should be searched. This reveals several emails between Mr B and the pupil, which are overly familiar in nature. Some of the emails have been sent to the pupil during school holiday periods.



98

Contacting the LADO

- Head (or Chair of Governors if Head involved) contacts LADO to:
 - discuss the allegation;
 - take advice about whether the threshold in Part 4 is met;
 - agree a course of action
- LADO will guide as to what information they require including details of allegation, previous history, any similar prior allegations, staff member's current contact with children



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Potential outcomes of the LADO discussion

- No further action – justification to be recorded by Head & LADO
- Strategy meeting with LADO, school, children's social care services & police if child suffering, or likely to suffer, significant harm
- If no police or social care investigation school directed to follow its internal procedures



100

Case study – Part 3

The Head then receives a call from the parents of the pupil to say they have been looking at their daughter's mobile phone and have found text messages between her and Mr B. The text messages suggest that there has been a meeting between them on a Saturday evening and the parents say they are going to go to the police if the School does not act immediately.



101

Information sharing

At this early stage what information can be shared with:

- the staff who raised the concern?
- the subject of the concern?
- the pupil?
- the pupil's parents?

102

Information sharing (cont'd)

Overriding considerations:

- pupil welfare
- confidentiality
- data protection
- integrity of the investigation
- staff welfare



103

Early strategic considerations

1. Who will liaise with the statutory authorities?
2. Who will liaise with parents if needed?
3. Who will provide support for the child?
4. Who will liaise with the staff member?
5. Can the staff member remain at work?
6. Who will carry out a disciplinary investigation?
7. Who will conduct a disciplinary hearing?
8. Who will conduct an appeal hearing?



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Steps in the investigation process

- Assign a senior member of staff to investigation
- What process should be followed
- Consider the order of the investigation:
 - speaking to staff
 - checking use of school email system
 - speaking to the pupil or the teacher first?
 - do other staff need to be spoken with?
- How many staff will be involved?



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Case study – Part 4

The LADO, the Police and the Head have now attended a strategy meeting. The LADO and the Police consider that a potential criminal offence has been committed and that a criminal investigation is required. Mr B is arrested, questioned and released.

A decision is taken to formally suspend Mr B.



106

Suspension

- Must not be an automatic response
- Is there a justification for suspension?
- Consider alternatives
- What will the terms of suspension be:
 - contact with staff, pupils or parents?
 - access to school site?
 - access to email account and intranet?
 - availability for work if required?
 - pay and benefits?
 - support and point of contact



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Support for the staff member

- School has a duty of care to all employees
- Take all steps to minimise the inherent stress in this process:
 - when do you inform the individual?
 - encourage contact with trade union for support
 - point of contact with the school
 - access to counselling and medical support
 - social contact with colleagues
 - keep the individual informed of progress



108

Protecting anonymity of teachers

- Section 141F Education Act 2002 – 1 October 2012
- Prohibition on publishing details of allegations of a “relevant” criminal offence made against a teacher by a current pupil if likely to lead to teacher being identified
- Breach = criminal offence, fine of up to £5,000
- Restriction ceases when individual formally charged with the offence, if in the interests of justice to lift or individual consents



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The disciplinary case

- Is there a disciplinary case to answer?
- Is this a safeguarding matter or one of professional boundaries?
- What policies and procedures are relevant?
- What would the allegations include?
- What are the potential sanctions?
- What proof is required?



110

Case study – Part 5

Following a disciplinary hearing and appeal the allegations against Mr B are upheld and he is dismissed for gross misconduct.



111

Recording the outcome

- How should the outcome be recorded?
 - substantiated (sufficient evidence to prove);
 - false (sufficient evidence to disprove);
 - malicious (clear evidence to show deliberate act to deceive or cause harm to the accused);
 - unsubstantiated (insufficient evidence to prove or disprove); or
 - unfounded (where there is no evidence or proper basis to support the allegations)
- Detailed written disciplinary decision is important
- The LADO must be informed of the outcome
- LADO may have already arrived at their own outcome

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References and record keeping

- **References:**
 - only substantiated allegations should be mentioned
 - low level concerns - **KCSIE para 422**: a low-level concern which relates exclusively to safeguarding should not be referred to in a reference. A low-level concern (or group of concerns) which has met the threshold for referral to the LADO and is substantiated, should be referred to in a reference
- **Record keeping**: malicious allegations must not go on file
- **False and unsubstantiated allegations**: file note of procedure and outcome
- **Purpose**: to enable accurate information to be provided in references, clarifying information in future DBS checks & to avoid re-investigation



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References and record keeping (cont'd)

- **Period of retention:**
 - allegations of sexual abuse for the duration of IICSA
 - all other records until normal pension age or for 10 years from date of allegation if longer
 - insurers may specify a longer period



114

Referrals to the DBS

- **Section 35 SVGA:** schools required to make a referral to the DBS if an individual is removed (or removes themselves) from regulated activity because they have either:
 - engaged in “relevant conduct”;
 - satisfied the “harm test”; or
 - been charged or convicted of a “relevant offence”
- **Timing:** as soon as possible / “promptly” after removal
- **Does suspension trigger a referral?** KCSIE para 165: referral could be required *“this could include when an individual is suspended”*



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Referrals to the Teaching Regulation Agency

- **S. 141D Education Act 2002** - duty on schools to consider a referral to the TRA where ceased to use services of a teacher due to:
 - unacceptable professional conduct;
 - conduct that may bring the profession into disrepute;
 - conviction of a “relevant offence”
- Any safeguarding matter or serious code of conduct breach that results in dismissal (or resignation) should be referred



116

Reporting to the Charity Commission

- Timing
- Significant loss of funds; or
- Significant risk to:
 - property;
 - work;
 - beneficiaries; or
 - reputation
- Whose decision?
- Inspection?



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KCSIE 2021 eLearning

Help staff understand their safeguarding responsibilities

- ✓ **KCSIE Part 1**, for staff working directly with children
- ✓ **Annex A** course for those not directly in contact with children
- ✓ **KCSIE Part 2** training on the management of safeguarding for Governors

*Pricing starts from as little as **£3 per user***



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Interested?

Please let us know on your feedback form and we will be In touch.



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