

Safeguarding Network's response to the Keeping Children Safe in Education 2022 consultation.

Submitted 10th March 2022

Responses based on views expressed in a consultation event held on 2nd March 2022.

Please note that questions 1 and 2 were requesting personal information on the person submitting (name and email) so these have not been replicated here.

3. What is the name of your organisation?

Safeguarding Network

4. What type of organisation is it?

Consultancy.

5. In what capacity are you responding?

Other.

We undertook a consultation event on 2nd March with 98 attendees from a variety of settings including mainstream and private schools as well as specialist providers and MATs. Participants were mainly Designated Safeguarding Leads and other members of the senior leadership team such as Deputy/Assistant Head Teachers and Trust Safeguarding Leads. This submission is a summary of the responses from that consultation.

Safeguarding Network are a specialist organisation working with Designated Safeguarding Leads and bring much experience of working with schools, colleges and other education settings on this topic through forums, supervision, direct consultation and audits as well as the provision of training materials to organisations working with children and young people. Where we have included our own view, this is clearly marked as such.

6. Would you like us to keep your responses confidential?

No.

Section 1 – Summary of the guidance

Background

This section of the consultation addresses the changes we propose to make to the summary section of the guidance. The summary section contains:

- *Status of the guidance*
- *About this guidance*
- *Who is this guidance is for?*

Proposals and rationale

Following the amendment to the Apprenticeships, Skills, Children and Learning Act 2009 by The Education and Training (Welfare of Children) Act 2021, KCSIE 2021 was revised to incorporate safeguarding requirements for 16-19 Academies, Special Post-16 institutions and Independent Training Providers.

7. Is the guidance clear on the safeguarding requirements placed on the above providers?

No.

When discussing this with attendees, respondents were split on this, with many unsure of how to respond. From a position of oversight, this suggests that there is a lack of practical clarity in the proposed document as it stands. Areas where participants felt further information was required included more about apprenticeships, working with students with disabilities and learning difficulties as well as working with students over 18.

At Safeguarding Network we are often asked for our views about safeguarding young people over the age of 16. Our experience is that for providers there is a complex mix of ensuring that the right guidance (i.e. safeguarding children versus safeguarding adults) is followed as well as consideration being given to the requirements of the Mental Capacity Act 2005 when considering how to respond. The complexities were also evidenced as a result of the disclosures made linked with the Everyone's Invited website, where young people (16 and 17) were saying that they did not want their parents informed but wanted the setting to be aware of what had happened to them. Settings often found it difficult to balance the wishes of the young person with the need to keep them and others safe from harm.

Section 2 – Part one: Safeguarding information for all staff

Background

Part one of KCSIE sets out what all staff need to know, what they need to look out for and where they should report their concerns.

What school and college staff need to know

Proposals and rationale

We think it is important that all staff should be aware that children may not feel ready or know how to tell someone that they are being abused, exploited, or neglected – or they may not recognise their experiences as harmful. As such we have added this into the section on what school and college staff need to know.

8. Is the additional information helpful for school and college staff?

Yes.

88% of our respondents felt that the additional information was helpful. Respondents' views included:

- that it would benefit children.
- it is clearer.
- it helps understanding.
- staff would realise not to pressure children to tell.
- staff would recognise the need to look for other signs of abuse.

As there was a variance in interpretation, it is the view of Safeguarding Network that this addition needs further clarification as to the purpose of its inclusion as this is the part of the document that all staff are expected to read. We would propose that the current wording be built on to say:

19. All staff should be aware that children may not feel ready or know how to tell someone that they are being abused, exploited, or neglected, and/or they may not recognise their experiences as harmful. It is therefore important that staff do not wait for a verbal disclosure and are able to identify when changes in presentation and behaviour may be indicators of abuse.

Section 3 – Part two: The management of safeguarding

Background

Part two of KCSIE sets out the responsibilities of governing bodies and proprietors to safeguard and promote the welfare of children and includes guidance on the safeguarding policies and procedures they should have in place.

Legislation and the law

Proposals and rationale

Schools and colleges have legal duties with regard to the Human Rights Act 1998, the Equality Act 2010 and the Public Sector Equality Duty (those schools and colleges that are publicly funded). Whilst these are not new requirements, we have added information (originally in the standalone sexual violence and sexual harassment between children in schools and colleges advice) to remind schools and colleges of these legal duties and the links to their safeguarding duties and sources of additional information.

9. Is this additional information helpful?

Yes.

The majority of the respondents said that it was useful information to have.

At Safeguarding Network, we agree with this view as this serves to reinforce the joined nature of safeguarding with other areas of legislation, further demonstrating how safeguarding is a culture as opposed to an approach to a specific set of circumstances.

Governor and trustee training

Proposal and rationale

Training is essential to ensure new governors/trustees understand their roles and responsibilities, particular in them taking a strategic rather than an operational approach. Other departmental guidance already sets out the importance of appropriate governor training (the Governance Handbook and the Academy Trust Handbook) and evidence suggests that the majority of governors and trustees already undertake some form of safeguarding training. We are proposing to strengthen KCSIE and explicitly set out that all governors and trustees should receive safeguarding and child protection training (including online safety) at induction. We will also say the training should be regularly updated.

10. Do you agree that KCSIE should set out that all governors and trustees receive safeguarding and child protection training as part of their induction?

Yes.

Our respondents were unanimously in favour of this addition, many citing as reasons concern regarding their governance bodies' lack of understanding not just of safeguarding per se, but equally importantly, of their role in supporting /challenging the setting.

In the view of Safeguarding Network this builds on the changes that have been made in recent editions of Keeping Children Safe in Education, reinforcing that safeguarding is integral within a number of different areas that governors have oversight of and ensuring that responsibility sits with the governing body as a whole and not just the safeguarding governor role, as is outlined in section 175 and section 157 of the Education Act. There is however a need to ensure that governors are not only trained in relation to the process of safeguarding (as all new starters are at the point of induction), but that they also understand how to take a strategic approach to safeguarding to ensure that their setting is meeting the safeguarding requirements of all groups and not just those identified as being at risk. An example of this is the governor oversight that is required into their setting's response to incidents of child-on-child abuse or the sharing of nudes and semi-nudes amongst learners – it is our view that governors need to be equipped with the skills to test the culture of safeguarding in their setting and determine what strategic support is necessary.

Whole school and college approach to safeguardingProposal and rationale

We made changes to Part two and Part five of the guidance in 2021 to support schools and colleges take a whole school and college approach to safeguarding and especially child-on-child abuse. This included clearer guidance on the systems that should be in place to support the reporting of abuse, the importance of recognising that just because abuse isn't being reported does not necessarily mean it is not happening and links to the various policies such as behaviour, exclusion and RSHE that will all play important parts in the whole school/college approach.

11. Does KCSIE, but especially Part two and Part five, support schools and colleges take a whole school approach to safeguarding?

Yes.

The overwhelming majority of our respondents felt that it does.

At Safeguarding Network, we have found that there has been debate over some of the detail within this, for example the adopting of a zero-tolerance approach. We have found that settings may struggle with this concept, as in its most stringent form every incident would result in some form of punishment for those that have done wrong. In discussing this with settings however it has been agreed that there is a balance to be struck between punishing children and young people and helping them to learn from what has happened with a view to ensuring that they do not make the same mistakes again. Our discussions with settings have therefore resulted in clarity that whilst there is a zero-tolerance approach to issues such as child-on-child abuse or sexual violence and sexual harassment, meaning that all incidents are responded to, the nature of the response should then be appropriate for the incident that has happened. We feel this could be clarified in the guidance by referring to the proposed revision of the Behaviour for Schools guidance.

12. Is there anything else that would support schools and colleges take a whole school and college approach to safeguarding?

Most of our respondents did not add anything further. Those that did highlighted the need for safeguarding training, especially for senior leaders and governors or equivalent.

As identified earlier in this response, this is something that Safeguarding Network agree with as there is a need to understand safeguarding at a strategic level as well as a practical level. This is something that Safeguarding Network have already recognised and are working with our settings to address.

Safeguarding Network supports the view that training should be delivered to standardised criteria to ensure consistency across all settings, ensuring that leaders are able to provide strategic safeguarding with the highest level of training.

Online safety

Proposal and rationale

We made relatively significant changes to the online safety section in 2021. We want to test if those changes have helped schools and colleges and what more we might do via KCSIE.

13. Do you think the changes made on online safety in KCSIE 2021 have helped to embed online safety into your whole school/college approach to safeguarding?

Yes.

The majority of our respondents replied yes to this, with some settings saying that they already incorporate online safety into their safeguarding training and education. The web-links and summary of issues were highlighted as useful.

Continual changes in technology and the pandemic have meant that children and young people are being pushed more and more to an online world, and with there being active development of the concept of the metaverse, this is something that is going to change further. At Safeguarding Network we often hear that staff feel underequipped to keep children safe from online harms, and therefore we feel that there needs to be distinction between operational requirements and strategic requirements. In essence this would mean that there is a review of the information in Part two which is often seen as strategic and the moving of operational based information into Part one for all to read.

14. Are there any additional changes you believe should be made in Part two of KCSIE to help schools/colleges better understand how to keep children safe online:

- 1. In the classroom and on school or college premises**
- 2. During remote learning**

No opinion.

The majority of our respondents had no firm opinion on this question, with the remaining almost equally split between 'Yes' and 'No'. Remote learning and guidance on the use of different platforms were the only areas cited for additional information.

At Safeguarding Network, we have had a number of queries over the course of the pandemic about keeping children safe whilst they are remotely learning across all age groups. Our view is that settings may benefit from an indication as to how far it is expected that a setting's responsibility extends in relation to online learning when the devices being used are not those provided by the setting.

Designated safeguarding leadProposal and rationale

We want to ensure, as already set out in KCSiE, that designated safeguarding leads (DSL) have the appropriate status and authority to carry out the duties of the post. It is especially important that governing bodies and proprietors recognise the key role the DSL plays in the day-to-day leadership of safeguarding and provide the role with the necessary authority, status, resources, and training. As such we have made this clear in Part two of KCSiE. To encourage people to read the full DSL job description, and fully understand the importance and breadth of the role, we have moved the majority of the DSL content in Part two, into the full DSL job role as set out in Annex C.

15. Do Part two and Annex C adequately reflect the importance of the status and authority of the DSL role?

Yes.

The majority of our respondents replied yes to this question. Some people felt that more should be added but were unsure what. It was mentioned that the information was largely the same, just in a different place, and concern was expressed that, by putting all the information in the Annex, that this may be seen to diminish importance of the role.

Safeguarding Network provides supervision to a range of settings with the feedback being that this is found to be highly beneficial for all involved. We would support Keeping Children Safe in Education being updated to ensure that all Designated Safeguarding Leads have access to supervision in order to help support them with the nuances and emotional demands of the role. This would bring KCSiE in line with Working Together 2018 and the Ofsted Inspection Handbook.

16. What would you suggest DfE can do to emphasise the authority and status that should be attached to the DSL role?

The majority of responses were about making it more explicit that DSLs need time to do the job and that they should have limited or no teaching commitment, and that greater emphasis was needed on ensuring that DSLs received appropriate/external supervision (and had protected time to access it). The pressure that the DSLs are under was shown in respondents answers to a question about their welfare, with almost half reporting being exhausted at the end of the week (half of which were saying they felt completely exhausted) and almost half of the respondents reporting that they felt overwhelmed by their role.

As identified in the previous answer, Safeguarding Network believes that DSLs should have mandated time for supervision with a suitably qualified and experienced professional to assist with the nuances and emotional demands of the role.

Children at great risk of harmProposal and rationale

Whilst all children should be protected, it is important that governing bodies and proprietors recognise (and reflect in their policies and procedures) some groups of children are potentially at greater risk of harm. We already provide guidance on categories of children that governing bodies and proprietors should be aware of and reflect as appropriate in their own process, policies, and procedures. The standalone sexual violence and sexual harassment between children in schools and college advice sets out that children who are lesbian, gay, bi or trans (LGBT) may, in some cases, be at increased risk of harm. As we incorporate the standalone advice into KCSIE we are including this in the children at greater risk of harm section, along with where schools and college can go for support.

17. Is the additional information helpful for schools and colleges?

Yes.

The majority of our respondents agreed that the additional information is helpful.

Whilst at Safeguarding Network we see this as a positive step, we are concerned that the specifying of lesbian, gay, bi or trans (LGBT) presents too narrow a focus on the issues within modern society. We are of the view that the guidance should be widened to include any child who is either questioning their sexuality or identity, or those that identify as different to perceived societal norms and societal expectations.

Section 4 – Part three: Safer recruitmentBackground

Part three of KCSIE provides schools and colleges with guidance on the statutory requirements and important information about safeguarding and recruitment.

Restructure

In 2021 we substantively revamped Part three of KCSIE to better reflect the recruitment process that schools and colleges follow. We want to test if the new Part three is an improvement.

18. Is the restructured Part three (designed to follow the recruitment journey) an improvement compared to the old lay out?

Yes.

The majority of our respondents prefer the restructure, finding it logical, clearer, simplified and helpful.

19. Are there any additional changes you would suggest we make to Part three to better support school and college safer recruitment?

Don't know.

There was an almost even balance between No and Don't Know responses. The few respondents that wanted changes suggested more clarity about what should be included in references, and there was some expressed confusion over what is needed regarding checks for people such as contractors, photocopy engineers, visitors and volunteers.

Safeguarding Network questions the continued inclusion of curriculum vitae's. Safer recruitment practice is that there is no role for a CV in the application process, and that application forms allow for the required information to be obtained. Therefore, our view is that, in line with safer recruitment processes, CV's should not be accepted.

Shortlisting

Proposal and rationale

As part of the shortlisting process, we have added a new paragraph suggesting schools and colleges, as part of their due diligence, should consider carrying out an online search (including social media) on shortlisted candidates. This would explore anything that is publicly available online which may be worth testing at interview.

20. Is it helpful to suggest schools and colleges should consider online searches?

Yes.

The majority of our respondents agreed that it was helpful, however many qualified their answer with concerns such as:

- not having the resources to do the searches.
- would need very clear procedures and protocols to be put in place.
- needed further clarity on what would be considered worrying.
- need to ensure that settings are only searching for things that are relevant to the appointment.
- searches needed to be carefully managed.
- potential for complaints being made against the setting.

Those that did not find it helpful or were unsure raised concerns such as inequities arising where not all the candidates have social media accounts, lack of clarity of what media should be searched and how far searches should go, concerns about settings being blamed for not searching enough, the potential for unconscious bias. There were also concerns about fake news and malicious posts.

Safeguarding Network's view is that whilst the rationale behind online searches is broadly protective and for many there is a reputational issue to uphold, the area is fraught with difficulties which could then lead to potential complications both in terms of employment law but also in terms of the criteria used to assess an individual's social media presence. What individuals share and do not share is unique to them and there is therefore no standard by which to assess.

It is also noted that the proposed addition refers to "incidents or issues" however there is no guidance as to what might constitute an incident or an issue, with determination of this therefore falling to a value-based decision made by the individual who is completing the online search. This then also leads to the question that if there is someone with a grievance against an individual, could they then determine something as an incident that should have been picked up and use this as a means to challenge the setting?

Finally, at Safeguarding Network we would like to clarify what is meant by due diligence in this context as this is a very specific legal term with specific connotations, whilst the emphasis appears to be on continuing the setting's culture towards safeguarding.

Section 5 – Part four: Allegations of abuse made against teachers and other staff

Background

Part four of KCSIE is about managing cases of allegations that might indicate a person poses a risk of harm if they continue to work in their present position, or in any capacity with children in a school or college. This part of the guidance should be followed when dealing with allegations against anyone working in the school or college, including supply teachers, volunteers, and contractors.

Managing allegations of abuse

Proposals and rationale

KCSIE has always reflected the fact that schools and colleges should have processes in place to respond to any allegations or concerns about staff, volunteers, and contractors. However, whilst there has always been detailed guidance in Part 4 of KCSIE on managing allegations and concerns that meet the harms threshold, we had not in the past provided guidance on allegations or concerns that fall short of that threshold. In response to feedback from our last KCSIE consultation we added a new section about 'low level' concerns.

21. Has this new section about 'low level' concerns helped to clarify the importance of addressing 'low level' concerns?

Yes.

22. Does this section provide the right level of information on 'low level' concerns?

Don't know.

Around 60% of our respondents answered yes. The majority of those that disagreed wanted greater detail and clarity about what a low-level concern was and more examples to be given that they could share with staff.

Safeguarding Network would like to see clarification of the statement about who low-level concerns are reported to being a matter for the school or college (para 427). Where there are allegations that meet the harms threshold, the guidance is that it should be reported to "either the headteacher or principal, or, where the headteacher is the subject of an allegation, the chair of governors or chair of the management committee and in an independent school it will be the proprietor." Our view is that the reporting of low-level concerns should follow the same criteria as we have seen in historic cases how low-level concerns have been present prior to an allegation of harm being made, and the chronology is vital. Coupled with this however is that where there is an allegation of harm, as set out in para 387 of the proposed document "The school and college must make every effort to maintain confidentiality and guard against unwanted publicity ...", and our view is that there needs to be similar supports in place for individuals subject to low-level concerns whilst they are considered and an outcome determined.

References

Proposals and rationale

KCSIE is clear that only substantiated allegations that meet the harms threshold set out in Part four should be included in employment references. Now that we have added a section on 'low level' concerns, we want to find out more information about sharing these concerns when they are substantiated.

23. Would you include substantiated 'low level' concerns on an employment reference?

Yes.

After discounting those that said it was not their responsibility, 57% of the remaining respondents said yes, 30% were unsure, and 13% said no.

Very few 'no' respondents gave a reason. Those that did cited HR protocol restrictions, felt that it was not required to do so, and suggested that some low level concerns may not be subject to disciplinary/capability proceedings.

Section 6 – Part five: Child-on-child sexual violence and sexual harassment

Background

Part five of KCSIE is about managing reports of child-on-child sexual violence and sexual harassment. It sets out what governing bodies and proprietors should be doing to ensure reports of child-on-child sexual violence and sexual harassment are managed appropriately.

Effectiveness of Part five

Proposals and rationale

We have withdrawn the Sexual violence and sexual harassment between children in school and colleges standalone advice and removed all references to it. This guidance has now been incorporated throughout KCSIE, and especially in Part two and Part five, in order to give the issue the prominence it deserves in statutory guidance. It will also remove duplication as much of the content in the standalone advice was already in Part five of KCSIE. Incorporating the standalone advice ensures schools and colleges only need to go to one document rather than two when considering child-on-child sexual violence and sexual harassment. Most of the content has been moved to the beginning of Part five. We have also taken the opportunity to move across the definition of 'victim' and 'perpetrator'- moved into the summary section, and information that links school and college legal duties under the Human Rights Act 1998 (HRA), the Equality Act 2010, the Public Sector Equality Duty, and their safeguarding responsibilities- moved into Part two.

24. Please provide any comments on how we have incorporated the standalone sexual violence and sexual harassment between children in schools and colleges advice into KCSIE?

Our respondents were mainly positive about the change. They felt that having the information included was sensible, better, clearer, helped raise awareness, gave the subject more importance and made it less of a taboo subject. There was some concern about how long KCSiE was becoming.

The department continues to recognise the complexities for schools and colleges of managing reports of child-on-child sexual violence and sexual harassment. We think incorporating the standalone advice in KCSIE will help give the issue the prominence it deserves and remove duplication between the two documents for schools and colleges. Part five remains the primary resources for schools and colleges on this matter and has been strengthened by incorporating additional guidance and support from the standalone advice.

25. Does the revised Part five of KCSIE provide the right level of information to support schools and colleges manage reports of child-on-child sexual violence and sexual harassment?

Yes

The majority of our respondents were happy with the information as revised.

Section 7 – Expanding our evidence base

Background

In this section of the consultation, we are seeking to expand our evidence base in areas where we have routinely been asked to consider changes to KCSIE but where our knowledge is currently limited.

Sharing Nudes and Semi Nudes

Proposal and rationale

We know that this is a societal issue but also one that manifests in schools and colleges. KCSIE signposts schools and colleges, and especially DSLs, to - Guidance overview: Sharing nudes and semi-nudes: advice for education settings working with children and young people - GOV.UK (www.gov.uk).

26. Do you feel confident in handling reports of sharing nudes and semi nudes?

Yes.

The majority of our respondents were confident and referred to guidance and their own policies and procedures where necessary. Those that disagreed cited issues such as inexperience, lack of age-related guidance on how to respond, and lack of confidence in determining the context in which the images were created (for example whether they were consensual or coerced).

27. Are you aware of the UKCIS advice on sharing nudes and semi nudes?

Yes.

62% of our respondents were aware of this guidance. This does however, suggest that there is a substantial minority who are not aware of the guidance.

Question for Designated Safeguarding Leads (DSLs) and their deputies

28. What further information would you find helpful in your DSL role to help you understand better how to manage reports of sharing nudes and semi nudes? What further information would you find helpful?

Additional help requested included further support and information for families, additional training resources and webinars, information on the criminal offences involved, further guidance on young people's motivations and identification of coercive behaviour.

Filtering and monitoring systems

Proposal and rationale

Filtering and monitoring systems are an important part of a school or college's processes to keep their children safe online. KCSIE sets out that appropriate filtering and monitoring systems should be in place and signposts to advice from the UK Safer Internet Centre- Appropriate Filtering and Monitoring.

29. Do you feel able to make informed decisions on which filtering and monitoring systems your school or college should use?

No.

The majority of respondents indicated that it was either not their responsibility, that they did not feel able to make informed decisions or be able to have a knowledgeable conversation with those who set up filtering and monitoring systems. Explanations given included that in some settings these decisions were made centrally, either by the Multi-Academy Trusts, on advice from their Local Authority or by their IT support services. Some respondents said that they worked closely with their IT support teams. One respondent raised the concern that some schools don't seem to realise the difference between filtering and monitoring; and was also concerned that systems in place within a school did not always extend to school owned devices used when staff were working from home.

Child Suicide

Safeguarding Network has a view that suicide in young people is a safeguarding issue. Other than a single word mention under the topic 'online safety', suicide is not covered at all in Keeping Children Safe in Education 2021 nor in the draft 2022 version. We know that over 200 school children are lost to suicide each year and for many of these children there are multiple warning markers and 20% of the fatal Serious Incident Notifications reported on in the Child Safeguarding Practice Review Panel involved a child death from suicide. Our view is therefore

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confidence in safeguarding

that all staff need to be supported and trained to not only vulnerability factors and recognising potential warning signs but also to be able to talk with children and young people about suicide without fear of increasing risk.

To check if education settings were in agreement or not, we added a question to our consultation as follows:

Should child suicide be included in KCSiE 2022 as a specific safeguarding issue?

Yes

92% of our respondents said yes, 4% no, 4% did not know. In light of this response, we ask that this area be considered for inclusion. This was further supported by many DSLs sharing the volume of the concerns they are managing around suicide ideation and this featuring in a majority of their workload. DSLs discussed that they did not feel there was enough support or recognition about suicide as a safeguarding issue and the need for this to be addressed clearly in Keeping Children Safe in Education to give this issue the attention it requires.