



# Safeguarding Children:

Guidance for English Higher  
Education Institutions (HEIs)



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# Acknowledgements

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The Department is grateful for permission to use extracts from *Aimhigher...Aimsafer: A Framework For Safeguarding Children and Young People in Higher Education Institutions* (Burke & Ingram 2005), and *Child Protection and Safeguarding: Policy & Procedures Manual 2006-07* (Aimhigher Greater Merseyside). The Department is also grateful to those HEIs who have given permission for their details to be used in the case studies.

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# Message from the Minister of State

I am very pleased to be able to introduce to you this guidance *Safeguarding Children: Guidance for English Higher Education Institutions*. The guidance has been produced in collaboration with partners from across the HE sector and is designed to support Higher Education Institutions as they undertake their own planning and risk assessment processes.

The Government's policy on safeguarding children is clear. *Every Child Matters* places the protection of children from harm at the core of all our policies as we support them to reach their full potential in life. Government has already produced guidance for those parts of the education sector, such as schools and FE colleges, where institutions have direct legislative obligations in respect of safeguarding.



It is a reflection of the changing relationship between the Higher Education sector and other parts of the education system that HE institutions have requested guidance. Institutions and their staff may often come into contact with young people during their activities to raise aspirations and attainment and widen participation in higher education. Links between HE institutions, schools and colleges are hugely valuable and offer a range of benefits to all of those involved. I would like to see these links develop further, from building on existing strong, effective partnership arrangements such as Aimhigher to growing new individual relationships through sponsorship of an Academy or Trust school.

Clearly guidance of this kind will never replace the need for organisations to obtain their own legal advice, in the context of their own circumstances, but it can provide a useful tool as institutions undertake their own detailed planning and risk assessments.

I would also like to thank all those individuals and organisations from across the HE sector who helped in the development and drafting of this guidance.

**Bill Rammell**

# Executive Summary

## Summary

1. The Government's *Every Child Matters* agenda aims to ensure that every child attains their full potential. Safeguarding children from harm plays an important part in meeting this goal. Safeguarding is also relevant to meeting any duty of care that the Higher Education Institution (HEI) may owe towards children (i.e. those aged under 18) with whom it has contact.

## Legislation

2. There is no legislation in the area of safeguarding that is directed specifically at HEIs. However, some pieces of legislation and, in some circumstances, the common law, place responsibilities on organisations in general, and the forthcoming Independent Safeguarding Authority Scheme will have an impact on HEIs. It is for HEIs to make sure that they know about their legal responsibilities and how to comply with them, and to ensure that they are doing so. This guidance is not a substitute for legal advice.
3. This guidance reflects the current legislation and is correct at the time of publication. It will be updated once the Independent Safeguarding Authority Scheme becomes operational.

## Roles and Responsibilities

4. Effective safeguarding practice starts with having in place effective procedures. Lines of responsibility should be clear, with leadership from the highest level. Representatives from across the HEI should be involved in implementation and in contributing to a culture in which safeguarding is discussed openly. Staff with particular responsibilities will need appropriate training, and all staff need to be aware of the HEI's policies and procedures.

## Written policies and risk assessments

5. A written policy, which reflects the law, is an important starting point in establishing sound practice. It should be informed by a risk assessment which covers all areas of the HEI's contact with young people. The risk assessment should reflect the need to help young people develop towards adulthood, and take into account the needs of young people who may be vulnerable. A Code of Conduct, setting out standards of behaviour, will help young people and staff. The Data Protection Act 1998 provides for the sharing of information between organisations in some circumstances. Organisations such as the Local Safeguarding Children Board (LSCB) or the local authority may be able to help HEIs establish best practice, and we recommend that HEIs establish relationships with these organisations.

6. HEIs need to decide how best to develop their policies and practices and how best to allocate their resources to meet the implications arising from implementing effective safeguarding practices.

## Responding to allegations

7. Allegations of misconduct may arise even in HEIs which pay a high level of attention to safeguarding. Some members of staff may need specific training in handling allegations. HEIs may be able to build on existing policies and guidance relating to harassment and/or whistleblowing in formulating their policies and developing their procedures. Young people making allegations need to be supported. HEIs should know to whom incidents should be reported, and when it is appropriate to do so.
8. Staff against whom allegations have been made should be advised to seek the advice of their union or professional association. At the end of the case, the needs of the member of staff concerned should be reviewed. Decisions should always be recorded, and information handled sensitively and within the requirements of the law.

## Staff: recruitment and vetting

9. A critical element of effective safeguarding is to make sure that those whose work involves contact with children and young people do not present an unacceptable risk. A strategy for ensuring their suitability is likely to mean:
  - a. That the HEI's Human Resources strategy needs to reflect the HEI's commitment to safeguarding. This affects vacancy advertising processes and the normal pre-recruitment checks on prospective staff undertaken by HEIs.
  - b. Checks through the Criminal Records Bureau (CRB). CRB checks are governed by the Police Act 1997 (Part V). The Department strongly recommends that consideration should always be given to asking for Disclosures at Standard level where Section 113A of the Police Act 1997 (Part V) allows for it; and at Enhanced level (to include checks on the Protection of Children Act (PoCA) list and List 99) where Section 113B allows for it. While both Standard and Enhanced Disclosures include a check of the Protection of Children Act (PoCA) List and List 99, Enhanced Disclosures also include a check on local police records.
  - c. Adhering to the forthcoming provisions of the Independent Safeguarding Authority Scheme. Once it is fully operational, those employed in 'regulated' or 'controlled' activity must have applied to become a member of the scheme<sup>1</sup>. The existing CRB procedures will run alongside the scheme and guidance will be issued in due course on the circumstances in which HEIs might wish to, or will need to, obtain CRB Disclosures on scheme members. Only CRB Disclosures at Enhanced level will include a check against the new Independent Safeguarding Authority Scheme.
  - d. Concerning nurseries and crèches, adhering to the national standards for under 8s childcare and childminding set out by Ofsted. These include a requirement for CRB Disclosures at Enhanced level, which include checks on the PoCA List and List 99. In September 2008 a new regime for registration of childcare provision with Ofsted will

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1 The terms 'regulated activity' and 'controlled activity' are defined in the glossary at Appendix 7.

be introduced, and this will also require Enhanced CRB Disclosures for those working with children. Those working with children will also be required to be members of the Independent Safeguarding Authority Scheme.

- e. Staff who have worked overseas may need additional checks such as letters of good conduct and embassy references, as the CRB Disclosure process may not be sufficient.
  - f. Depending on the level of risk, HEIs may require external contractors to undertake checks on their own staff. The terms of contracts between HEIs and external contractors need to allow for HEIs to make this requirement. A screening document may be appropriate if there is insufficient time to obtain Disclosures before work commences.
  - g. Existing staff may need to be asked to obtain CRB Disclosures at the appropriate level if the nature of a post changes or other circumstances suggest that one is necessary.
10. CRB's Code of Practice requires that all registered bodies should have a policy on Recruitment of Ex-Offenders. The Code of Practice is available at [www.crb.org.uk/PDF/code\\_of\\_practice.pdf](http://www.crb.org.uk/PDF/code_of_practice.pdf).<sup>2</sup>

### Students: recruiting and vetting

- 11. In safeguarding terms, there is no difference between students as workers and the rest of the HEI's workforce. The key issues are the level of risk and the nature of the post.
- 12. The provisions of the forthcoming Independent Safeguarding Authority Scheme will apply to students as well as staff. Students employed in 'regulated' or 'controlled' activity must have applied to become a member of the scheme. This Section may need to be updated following the introduction of the scheme to reflect specific situations.
- 13. Particular care may be needed with posts where there is likely to be one-to-one contact, such as in many mentoring schemes. A CRB Disclosure at Enhanced level is likely to be required in every case.
- 14. Some undergraduates and postgraduates are paid by a school or college. There are particular regulations that apply to members of the school and college workforce. These are set out in *Safeguarding Children and Safer Recruitment in Education*, available from [www.everychildmatters.gov.uk/\\_files/AD6343FE3EF01D9FC86617FE11940A48.pdf](http://www.everychildmatters.gov.uk/_files/AD6343FE3EF01D9FC86617FE11940A48.pdf)
- 15. Where undergraduate students under 18 are undertaking work placements, HEIs should regard the safeguarding of children in a similar way to health and safety. Risks should be assessed and appropriate action taken. HEIs, together with the employer, should consider what vetting action is needed in respect of the workplace supervisor.
- 16. HEIs are often involved in vetting students, including CRB checks, as part of professional body or other requirements connected to the course of study. There may also be other, similar, circumstances where the level of risk makes it necessary. The Universities and Colleges Admissions Service (UCAS) application form asks applicants to declare any relevant

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<sup>2</sup> CRB is currently reviewing the Code of Practice and a new Code will be implemented in summer 2008.

criminal convictions and this information can be used to help assess student suitability for certain courses. HEIs will, however, need to consider how best to obtain information from students applying through other routes. Where checks reveal relevant information, HEIs need to decide the effect on course entry and/or the nature of safeguards to put in place.

17. Some students undertake work placements where children will be present. Under no circumstances should any child or children be left in the sole care of an individual student without suitable and proper supervision from a fully qualified professional. Any potential risks to the student and children should be considered as part of the initial assessment of health, safety and welfare. We recommend that HEIs undertake a risk assessment with every placement provider where children will be present. HEIs should also ensure that all necessary suitability checks, including where necessary a CRB check, have been carried out on the student.
18. There are particular requirements in respect of Initial Teacher Training (ITT), training for posts in childcare, nursing and midwifery, and social work. HEIs are likely to be familiar with these arrangements.

### Using and storing information

19. Applicants who are barred or who have restrictions placed on their employment must not seek employment which breaches the restrictions. The onus is on applicants not to seek such work. It is also an offence for an employer to knowingly employ an individual who is disqualified from working with children in a 'regulated position'.<sup>3</sup> CRB Disclosures help to prevent such people from seeking or gaining entry to positions from which they are barred.
20. HEIs need to understand how to assess information obtained during vetting and other pre-entry checks such as employment history and references. Suitability needs to take into account the nature of any offence, the nature of the appointment, the age of the offence and the frequency of the offence. It is for HEIs to make those judgements.
21. Ideally, all checks should be completed before a new recruit starts work. Where this is not possible, HEIs need to consider temporary measures to minimise risk. Levels of supervision and the nature of the duties in the short term are aspects to consider. In cases where an Enhanced level CRB check is being requested and has been delayed, a List 99 check is recommended before an individual starts work.
22. The CRB's Code of Practice provides guidance on storing information about Disclosures. HEIs should make an assessment about their records security and all Registered Bodies must have a written policy on the correct handling and safekeeping of Disclosure information. A sample policy statement is included in the CRB's Code of Practice.

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3 The term 'regulated position' is defined in the Criminal Justice and Court Services Act 2000 (CJCSA) and the definition is set out in the glossary at Appendix 7.

# Introduction

The breadth of contact between HEIs and young people under 18 years of age is considerable and growing. Current forms of contact include:

- under 18s enrolled on courses of study with HEIs, around 100 of whom are aged under 16;
- through Initial Teacher Training programmes, training of Social/Community or Health Professionals and other professions where contact occurs as part of the course;
- work with young people as part of outreach programmes or activities which may be organised in a variety of ways and involve a range of different people in their delivery;
- involvement at school or college with young people studying HE modules; and
- in non-educational settings on HEI premises, e.g. in a nursery/crèche, young people in clinical, therapy or care settings; and children's activities in a University organised by external/internal groups.

In most cases, the risks are low. However, contact between HEIs and young people is increasing through the widening participation agenda and through other initiatives and the risks may increase. A measured response is required by HEIs, which takes account of the level of risk.

Unlike schools and further education (FE) colleges, there is no current legislation that places duties specifically on HEIs in the area of safeguarding. However, some pieces of legislation and, in some circumstances, the common law, place responsibilities on organisations in general. Knowing about and understanding the law is a starting point in developing effective safeguarding practice. It is for HEIs to ensure that they are aware of legal requirements, and have assessed for themselves how the law applies to them and what response they need to make. This guidance is not a substitute for legal advice.

HEIs will want to ensure that they understand:

- a. any duty of care obligations they may have, together with the requirements of any applicable legislation relating to the protection of young people;
- b. the law in relation to obtaining, using and handling of information as set out in Data Protection Act 1998; and
- c. how they may be affected by requirements that safeguarding legislation places upon the schools, FE colleges and other organisations with which they work.

The law in this area is changing and, in particular, HEIs should be aware of changes that are being introduced through the Safeguarding Vulnerable Groups Act 2006.

Effective policies and procedures are important. However, it is important to remember that safeguarding is about managing relationships. HEIs will therefore want to move beyond legal compliance towards a position where safeguarding is part of their culture.

This guidance looks at some common sense steps that HEIs have been adopting to help them establish their own response to the challenges in this area and establish sound safeguarding practice.

This guidance does not deal with the implications of the Safeguarding Vulnerable Groups Act 2006 for safeguarding adults. Further information on issues relating to safeguarding the welfare of vulnerable adults can be found at

[www.dh.gov.uk/en/Policyandguidance/Healthandsocialcaretopics/Socialcare/Vulnerableadults/index.htm](http://www.dh.gov.uk/en/Policyandguidance/Healthandsocialcaretopics/Socialcare/Vulnerableadults/index.htm).

More general information about the protection of vulnerable adults is available at [www.dh.gov.uk/pova](http://www.dh.gov.uk/pova).

# Section 1: Allocating Roles and Responsibilities

## Introduction

23. The importance of senior management involvement was highlighted by Lord Laming following the inquiry into the death of Victoria Climbié.  
*“The single most important change in the future must be the drawing of a clear line of accountability from top to bottom, without doubt or ambiguity about who is responsible at every level for the well-being of vulnerable children.”* Victoria Climbié Enquiry Report, 2003: 1:27
24. Although the circumstances within HE are different to those that brought about this tragic incident, nonetheless a clear line of accountability from top to bottom, together with clearly articulated responsibilities, are essential starting points in developing sound safeguarding practice.
25. The following model is adapted from *Aimhigher...Aimsafer*. It may not be appropriate for all HEIs, but provides a starting point to help HEIs identify roles and responsibilities, and think through how best to allocate them in their individual cases. Appendix 2 provides a list of suggested duties.

## A senior nominated officer

26. Ultimate legal responsibility for the affairs of the HEI rests with the governing or equivalent body. There should be a mechanism in place for ensuring that this body is aware of, and approves and monitors, the HEI's approach to safeguarding. In many cases, HEIs have nominated a senior officer to take overall responsibility and report to the governing body or its equivalent. This role is a strategic one.

## Other nominated officers

27. Depending on the size and structure of the HEI, and the results of a risk assessment (see Section 2), it may be necessary to have a Designated Safeguarding Officer (DSO) in each faculty and/or department. DSOs may delegate certain day-to-day tasks to specific junior staff, whilst maintaining overall responsibility for ensuring they are carried out thoroughly and professionally.

## Wider responsibilities and involvement

28. Many HEIs take steps to create a culture where safeguarding is taken seriously across the institution. There are some important and easily recognisable barriers to the creation of such a culture:
- A lack of a clear safeguarding policy and clear demonstration about how it has been put into effect;
  - A lack of clear leadership from the top of the organisation;
  - Lack of time/other work pressures;
  - Complacency about the likelihood of abuse;
  - Individuals feeling powerless in the face of an issue;
  - Lack of dialogue and openness about the subject; and
  - Defensive or authoritarian culture not allowing concern or criticism of poor or unsafe practice.
29. However, there are ways to overcome such barriers. The following mechanisms can help:
- **A safeguarding group:** Some HEIs have established a 'safeguarding group' of representatives of the different areas within the HEI involved in safeguarding children. Group members might be at operational management level and meet perhaps twice a year to exercise an oversight/review/practice audit type role;
  - **A discussion forum:** A regular forum for staff and students – with safe culture/Code of Conduct issues as a standing agenda item. This enables regular review and updating;
  - **Advisory body:** A Committee of the senate or academic board and, for staff related matters, the Governors' personnel committee, are usually best placed to be the advisory body for 'safer culture' policies;
  - **Training:** A properly considered and structured programme of training is a powerful way of engaging with and changing culture (see paragraphs 30 – 32);
  - **Publicity:** Information about changes to policy/practice circulated throughout the HEI and to parents of young people below the age of 18, coupled with awareness raising techniques such as posters, explaining:
    - What to do if ...
    - Who to talk to
    - What happens next

### Case study

At Arts Institute at Bournemouth, the Student Support Centre provides specialist practitioners including two qualified and registered social workers, qualified counsellors, mentors and disability advisers, as well as private areas where students can discuss any concerns in a welcoming and supportive environment.

### Case study

Open University produces a set of safety guidelines, a copy of which is sent to each student aged under 18. The University is also planning to introduce a set for parents to raise awareness about their children's study and to reassure them about the University's commitment to providing a safe environment.

## Making sure that appropriate training is in place

30. HEIs will want to ensure that, as part of the induction process, all new staff (and others working with children such as student ambassadors) are informed about the need to safeguard children and young people. Some HEIs provide all staff with a copy of the written policy. However, in some HEIs the policy is a comprehensive procedural guide and unsuitable for this purpose. In such cases, a written statement summarising the key points, is more appropriate as an information guide for new staff. It should contain the name and contact details of the DSO and/or other key personnel. It will usually be appropriate to ensure that the new member of staff is familiar with the Code of Conduct (see paragraphs 45 – 50).

### Case study

Arts Institute at Bournemouth has issued *Safeguarding guidelines for staff and students working with children and young people*. The aims of the guidelines are to increase awareness, promote good practice and to help members of staff to make informed and confident responses to specific child protection issues, including accusations of poor practice, bullying and abuse. They set out what is required in relation to the protection of children and helps to create a positive and safe environment for all, demonstrating that the Institute takes its duty of care very seriously.

31. Some staff, especially DSOs and other nominated safeguarding officers, are likely to need formal training. Upon appointment, DSOs should receive training to equip them with the skills to act as a resource, refer to and work with external agencies, and broader training, for example in recognising signs of abuse. They should also undertake refresher training at periodic intervals to keep their knowledge and skills up to date.
32. Training needs for other staff are likely to be informed by the results of the risk assessment and the nature of their contact with young people. Basic training in safeguarding children, which equips people to recognise and respond to child welfare concerns, should be considered for all appropriate staff.

### Case study

A number of outreach staff at University of Sheffield have undertaken National Society for the Prevention of Cruelty to Children (NSPCC) training on safeguarding issues, and have used the principles of this training to develop training materials for other staff and student ambassadors. These materials are used in internal training sessions, and cover issues such as definitions and indicators of abuse, avoiding risk when working with young people and handling Disclosures.

### Case study

At University of Durham, all members of staff in the Undergraduate Admissions Office who regularly work with young people are given appropriate training. The training comprises guidance on best working practice and what to do if there is evidence or an allegation of abuse. All student mentors are also given comprehensive training prior to every major event in which they will be involved. Those involved in residential courses of at least a week's duration are, additionally, given training in coping with difficult situations. Everyone is given a copy of the Child Safeguarding Statement, including any staff involved in non-residential activity, e.g. teaching staff, and asked to adhere to its guidance. All staff in the Schools Liaison office are asked to complete the NSPCC Child Protection Awareness Certificate. Three senior advisers have also undergone an NSPCC training course to enable them to act as a designated child safeguarding officer. In college bars, training is delivered annually to all bar staff on how to manage the presence in college of students or open day visitors who are aged under 18.

# Section 2: Written Policies and Risk Assessments

## Introduction

33. Written policies can serve as a guideline to ensure that effective practices are developed, implemented, and kept up to date through periodic review. They can also help to demonstrate the importance attached to the subject by the HEI, thus providing reassurance to parents, schools and others with an interest. All HEIs should have written policies appropriate to their circumstances.

## Written policies

34. Developing a sound policy, including supporting documents, is likely to require significant effort and involve contributions from across the HEI. The content of the policy will depend on the results of the risk assessment process and in the light of ongoing risk management experience. (Risk assessment is considered in paragraphs 36 – 44 below). In that way, the policy – together with any supporting codes, guides or other documentation – should show how the HEI is seeking to comply with the applicable law, together with any best practice that it is adopting.

## Case study

University of Durham has a comprehensive Child Safeguarding Policy for its widening participation work, written in the light of *Aimhigher...Aimsafer*, advice from the NSPCC, and other examples of good practice in HE institutions. The policy starts with a clear statement of intent and basic guide to good child safeguarding practice. The subsequent detailed guidance focuses on how best to exercise the University's duty of care to school children visiting the University for residential and other events. It is updated approximately every six months. In addition, relevant written statements applicable to all those under 18 at the University, including registered students, are available in the form of a risk assessment in the University's Health and Safety Manual.

35. A key question is the nature and level of detail. Some policies contain only broad statements of principle, with greater detail being found in supporting 'policies', procedural guides or Codes of Conduct. Much will depend on whether the policy is seen as essentially a public document which provides reassurance and some basic information, or whether it is a working guide for an internal audience. The following is an example of a structure being used by De Montfort University.

### Case study

De Montfort University is developing its policy around the following headings:

1. University Statement on Child Protection
2. Scope
3. Principles
4. Reducing risk: increasing safety
5. External organisations working with children using University facilities
6. Code of behaviour and good practice
7. Recognition of abuse
8. Procedures:
  - a. Procedures for dealing with allegations or suspicions of abuse
  - b. Procedures for dealing with allegations or suspicions of abuse against an employee of the University at work
  - c. Procedures for dealing with concerns of possible abuse outside of the University
  - d. Procedures for dealing with an allegation of abuse by an individual of an external organisation using the University's facilities
9. Record Keeping
10. Monitoring and evaluation
11. Review of policy and procedure

### Risk assessments

36. HEIs will almost certainly want to identify the nature and scale of risks to children and young people and, where appropriate, take action to remove or reduce those risks. A variety of factors need to be taken into account:
  - Any applicable legal requirements;
  - The particular circumstances of the contact;
  - The age and understanding of the child or children concerned;
  - The number of children/individuals involved;
  - The extent to which its 'core business' involves children and young people (or the extent to which certain activities are primarily directed towards children and young people);
  - Internal communication and reporting channels; and
  - Its communication with the child/parent/guardian/school.

37. Risk assessments will help to determine, amongst other things, approaches to CRB checks; training plans; use of the HEI's internet facilities; health and safety policies including, for example, actions to minimise extra risks that apply to under 18s; a data protection audit concerning any specific records relating to children and young people; and management of student accommodation. They can also inform the HEI's written policy on safeguarding.

## Particular issues to take into account when assessing risk

### Vulnerable students

38. Some students are particularly vulnerable and risk assessments should take their needs into account. Vulnerable students include those who have been bullied or have been abused, and young people who believe that their progress is dependent on their relationship with a particular member of staff. Young people such as these are more likely to need and want adult support and friendship. Abusers can exploit this need in order to form an inappropriate relationship.

### Legal capacity of young people

39. Once people reach the age of 18 the law assumes them to have full legal capacity. Before that point, assumptions about their ability to take decisions on their own behalfs will depend on the circumstances, though, generally speaking, the older they are, the stronger the assumption will be that they should be allowed to make decisions on their own behalfs. (In many cases, statute stipulates the age at which young people may make a legally binding decision; for example you must be 16 to marry or to give binding consent to many forms of medical treatment).
40. Whilst parents, carers and others such as schools, have a natural desire to know about (and often approve) arrangements for their child or children, duties of confidence and rights relating to personal data apply to children just as they do to adults and must therefore be respected. Where HEIs have concerns regarding matters of safeguarding children, whether in relation to neglect or emotional, physical or sexual abuse, they should consider whether the circumstances justify overriding any duties owed to the child.
41. It is worth noting that different cultures have different understandings and expectations about competence and the transition to adulthood. As part of their diversity strategies, HEIs may wish to consider how best to ensure that the UK's culture, practice and English law are understood.
42. The UK Council for International Student Affairs (UKCISA) is producing a publication *International students under 18: guidance and good practice* which sets out the relevant legal provisions in England, Wales and Scotland in working with under 18s from outside the UK and gives an overview of good practice in this area. The guide includes separate sections on further and higher education, language colleges and independent schools. For details of how to obtain a copy, see [www.ukcosa.org.uk/about/publications/php](http://www.ukcosa.org.uk/about/publications/php).

## The law in this area

43. HEIs will want to take into account the law as it concerns the health, safety and wellbeing of young people with whom they have responsibilities.
44. In particular HEIs will want to ensure that they act in accordance with any duty of care which may arise in respect of children and young people in their care and/or on their premises. It is not possible to set out here the legal position on the duty or duties of care that HEIs might owe to each young person or group of young people with whom they have contact. For that, HEIs will need legal advice. Whether or not a duty of care arises, and if so, the nature of that duty, will depend on a range of factors which could include, for example, the nature of the relationship between the HEI and the young person, the circumstances in which the young person is on the premises or in the HEI's care, the responsibilities of the HEI staff involved and whether the harm which that young person may suffer is foreseeable.

### Case study

Particular courses run at, or by, Birkbeck College, University of London, where young people might participate, are subject to risk assessment for health and safety. Consideration is given as to whether there will be a requirement for significant one-to-one interaction between a member of staff and a young person away from other participants – individual tuition sessions, for instance. Where such a requirement is identified, then it is Birkbeck's policy that a criminal record Disclosure process will be undertaken for the staff concerned.

## Code of Conduct

45. The attitudes an HEI displays are crucial to the prevention of abuse and it may be difficult to change from one where safeguarding is not given much attention to one where it becomes part of the HEI's culture. A key part of this change is to define and require standards of behaviour that support safeguarding.
46. The setting down of defined standards of behaviour helps to protect students and staff. Some young people can be very determined about their relationships, but they may lack mature discernment. Responsible members of staff can find themselves in situations where they need guidance.
47. Many HEIs have Codes of Conduct, setting out appropriate standards of behaviour between staff, students and other parties such as workplace providers. These can give staff an understanding of what is expected of them. The HEI's main Policy document may contain the Code in full, or it may simply provide a short statement of principle and refer to the more detailed Code. Copies of the Code may be distributed when, for example, inducting new members of staff or at other training events. The National Network of Investigation and Referral Support Coordinators (IRSC) developed *Guidance for Safe Working Practice for the Protection of Children and Staff in Education Settings 2006*. The guidance provides a model for a Code of Conduct. It can be found at [www.buckscc.gov.uk/schools/documents/policies/child\\_protection\\_app11.doc/](http://www.buckscc.gov.uk/schools/documents/policies/child_protection_app11.doc/). A list of headings used in the model in the IRSC guidance can be found below at Appendix 4.

48. The Allegations Management Advisers, successors to IRSC, are currently developing Guidance for Safe Working Practice for Adults who work with Children and Young People. It is expected to be launched shortly.
49. Some elements of the HEI's Code of Conduct may have different provisions for relationships with very young children compared to, for example, those aged 17.

### **Sexual offences – abuse of position of trust**

50. The Sexual Offences Act 2003 contains a number of sexual criminal offences which may be committed by a person aged 18 or over who is in a position of trust in relation to a person aged under 18. The detailed provisions (including the relevant definitions) relating to these offences are at Sections 16 to 22 of this Act. The offences include sexual activity with a child, causing or inciting a child to engage in sexual activity and causing a child to watch a sexual act. Where there is a position of trust an offence under Sections 16 to 22 may be committed regardless of the age of consent and whether the activity is consensual. Section 21 sets out the circumstances in which a position of trust exists for the purpose of these offences.

### **Child in Need of Protection Policy**

51. There is no legal obligation on HEIs to take action to identify children who may have suffered abuse unconnected with the HEI, its staff or students. However, some HEIs have developed 'Child in Need of Protection' policies. These set out the HEI's role in helping children with whom they come into contact who, they suspect, may have suffered abuse.
52. If HEIs wish to explore this further, they should consult their local authority in the first instance. Training related to different forms of abuse, and in recognising signs of abuse, will be essential features of any policy, along with appropriate procedures when abuse is suspected. Some helpful ideas are given in *Aimhigher...Aimsafer*.
53. HEIs may also wish to know about ContactPoint. ContactPoint is a quick way to find out who else is working with the same child, making it easier to deliver more coordinated support. Information can be obtained from [www.everychildmatters.gov.uk/contactpoint/](http://www.everychildmatters.gov.uk/contactpoint/)

### **Links with other organisations**

#### **Sharing information**

54. If safeguarding a child or young person warrants sharing information in confidence with professionals, agencies or similar third parties external to the HEI, this is best achieved through the consent of the individual. However, even if that is not feasible or achievable, it may still be lawful to share that information under the Data Protection Act 1998 provided that the data protection principles are complied with and the relevant conditions under the Act are met. A relevant exemption may apply in the circumstances. HEIs should seek legal advice on the sharing of data on a case by case basis.

55. Advice on information sharing can be found at [www.everychildmatters.gov.uk/delivering-services/information-sharing](http://www.everychildmatters.gov.uk/delivering-services/information-sharing). This guidance has been developed to help practitioners, including HEIs, share information both professionally and lawfully. Amongst other things, the guidance sets out six key points on information sharing, backed up by core guidance. The six key points can be found at Appendix 5. It also provides guidance on the law, including the terms and impact of the Human Rights Act 1998; the common law duty of confidentiality; and the Data Protection Act 1998.

### Criminal Records Bureau

56. Organisations registered with the CRB will be required to comply with the CRB's Code of Practice. To ensure compliance with the code, organisations will be subject to assurance visits and/or a self assessment process monitored by the CRB.

### Local Authorities and Local Safeguarding Children Boards (LSCBs)

57. All local authorities will have identified a senior officer for safeguarding children to undertake and manage the provision of appropriate functions and services. As autonomous bodies, HEIs cannot rely automatically on local authorities to provide support, access to training, policies and procedures etc and, where local authorities agree to provide help, a charge may be made. HEIs that do not purchase services from a local authority can approach the LSCB for advice. Information on LSCBs, including a list of chairs and contact details, can be found at [www.everychildmatters.gov.uk/lscb](http://www.everychildmatters.gov.uk/lscb).
58. HEIs will also wish to know that, under the Children Act 1989, local authorities have a duty to make enquiries where they have reasonable cause to suspect that a child in their area is likely to be, or is, suffering significant harm. HEIs will need to co-operate with local authorities if enquiries are made and may wish to pro-actively engage with local authorities concerning safeguarding arrangements.

#### Case study

University of Lancaster is one of several HEIs that have drawn up child protection policies in consultation with the Child Protection Officer at the local authority.

### Implementation

59. There are resource implications for devising, implementing and monitoring an effective safeguarding policy. HEIs will want to consider these implications and decide how best to allocate their resources. The following case study shows how one HEI, Ravensbourne College of Design and Communications, set about devising its strategy for safeguarding children and young people. It is given as an example of an approach where an HEI needed to devise a policy from scratch.

## Case study

In response to the Employment Equality (Age) Regulations 2006, the college removed minimum age on entry criteria for its programmes of study. Its existing policies and codes of practice had been designed to work with the adult learner, and needed to be amended to cater for the need to safeguard children and young people. An actions and implementation plan was drawn up with the following headings:

### ● **Review of policy and procedure**

- Develop a Safeguarding and Child Protection policy, procedure, implementation plan and safeguarding handbook;
- Identify acting child protection officers and implement training programme;
- Develop Criminal Records check policy, procedure and monitoring mechanism – including arrangements for retrospective checks;
- Review recruitment policy, and practices and codes of conduct for staff in relation to relevant good practice guidelines;
- Review codes of conduct for staff in line with recommended good practice;
- Review student services codes of practice, in particular confidentiality and disclosure protocols;
- Review student services duty of care procedure to incorporate a distinct ‘children in need of protection’ policy statement – including the identification of local authority child protection agencies and the process of multi-agency support and referral.

### ● **Differentiated Access Policies**

- Identify risks associated with access to ‘adult’ material – library and other printed materials;
- Identify risks associated with Internet access – implications for ‘nanny’ software – set against JANET acceptable software user protocols;
- Differentiated Identity (ID) card system, access to student union (SU) events, bars etc;
- Access to student accommodation – college owned and private landlords’ standards for accommodation; (Care Standards Act 2000, Section 175 of Education Act. While these do not apply to HEIs, the University considered following them to be a matter of good practice.)

### ● **Differentiated admissions, enrolment and induction procedures**

- Robust and systematic mechanisms and procedures to identify under 18 admissions;
- Review of induction procedures to ensure under 18s receive additional induction and appropriate on-entry support.

## Further information

60. The Equality Challenge Unit ([www.ecu.ac.uk](http://www.ecu.ac.uk)) can provide help and examples of existing practice on safeguarding from across the HE sector.
61. In addition, the following websites provide information and advice about safeguarding issues and recruitment and selection, or issues relating to safeguarding and promoting the welfare of children, and links to other useful sites and documents:
  - The Department for Children, Schools and Families: Child Protection Website [www.teachernet.gov.uk/childprotection](http://www.teachernet.gov.uk/childprotection)
  - Every Child Matters Change for Children: [www.everychildmatters.gov.uk](http://www.everychildmatters.gov.uk)
  - Guidance on Safe Working Practice for the Protection of Children and Staff in Education Settings [www.teachernet.gov.uk/irsc](http://www.teachernet.gov.uk/irsc)
  - National Association for the Care and Resettlement of Offenders (NACRO). Recruiting ex-offenders: the employers' perspective: [www.nacro.org.uk/publications/prisreset.htm#exoffenders](http://www.nacro.org.uk/publications/prisreset.htm#exoffenders)

# Section 3: Responding to Allegations and Other Disclosures

## Introduction

62. Allegations of abuse may arise even in HEIs which pay a high level of attention to safeguarding. Allegations may be genuine, malicious or misplaced, but they are inevitably distressing for all concerned. It is important that all allegations are handled correctly and proper records are kept.
63. Allegations are not, however, the only form of disclosure. It may be the case that someone wishes to report something said by a third party, a suspicious occurrence, or something they have overheard. HEIs will wish to think through how best to handle such information.
64. Training in handling allegations and other disclosure information is likely to be required for members of staff in key roles such as DSOs. It should also be considered for other staff who may be given information about alleged incidents.

## Handling allegations and other information

65. Many HEIs have developed sound procedures and guidance (e.g. in relation to harassment and whistleblowing policies), in conjunction with their recognised trades unions, which can be easily adapted for the effective but sensitive handling of 'safeguarding' complaints and allegations.
66. A young person who makes an allegation may feel perplexed, afraid, angry, despondent and guilty, and afraid about the consequences of making an allegation. It is important that any such feelings are not increased by the nature of the response and that they are supported and helped in what, for them, may be a frightening and traumatic process.
67. It is essential that any allegation made against a member of staff or volunteer in an HEI is handled fairly, quickly and consistently, in a way that provides effective protection for the young person who makes the allegation and at the same time supports the person who is the subject of the allegation.
68. The framework for managing cases of allegations of abuse against people who work with children is set out in chapter 6 and Appendix 5 of 'Working Together to Safeguard Children' (2006). HEIs should have regard to this guidance when developing procedures for handling allegations.

69. The following table provides some useful dos and don'ts about handling allegations:

<b>DO:</b>	<b>DON'T:</b>
<ul style="list-style-type: none"> <li>● be supportive</li> <li>● take what the young person says seriously</li> <li>● remain calm</li> <li>● reassure the child/young person that it was right to tell someone</li> <li>● use language the child/young person understands</li> <li>● explain what will happen next</li> <li>● write down immediately afterwards what was said, including the time, place and any other observations: sign and date the record.</li> <li>● pass the report to the DSO and, if you are in a school/college or other HEI, pass a copy to the DSO of that organisation</li> <li>● remember that you need support. Seek advice and support for yourself.</li> </ul>	<ul style="list-style-type: none"> <li>● panic</li> <li>● delay</li> <li>● promise to keep secrets</li> <li>● ask leading questions</li> <li>● ask the child/young person to repeat the story unnecessarily</li> <li>● express any opinions about what you are told</li> <li>● discuss the disclosure with anyone other than the DSO and other relevant personnel</li> <li>● start to investigate</li> </ul>

70. Other disclosure information should be passed to the DSO, who is best placed to evaluate it and consider what action, if any, needs to be taken.
71. The DSO, together with other appropriate senior staff and, where possible, the local authority, should discuss whether the alleged incident needs to be referred to social services and/or the Police for child protection and/or criminal investigation, and/or the HEI's Human Resources department. The decisions, with their reasoning, should be clearly recorded. Those involved in the related discussions must be identified in the documentation.
72. HEIs are well advised (e.g. by ICO<sup>4</sup> and JISC<sup>5</sup>) of their duties under the Data Protection Act 1998. Paragraphs 54 and 55 above give guidance on the sharing of information.

4 ICO is the Information Commissioner's Office. ICO is the UK's independent authority set up to promote access to official information and to protect personal information.

5 JISC is the Joint Information Systems Committee. Its activities support education and research by promoting innovation in new technologies and by the central support of ICT services.

## Implications for staff against whom allegations have been made

73. Staff against whom allegations have been made may be confused, frightened or angry, and appropriate support should be provided until the case is resolved. Grievance and disciplinary policies should be used in conjunction with safeguarding policies to ensure appropriate practice is adhered to in relation to complaints against staff. The member of staff should be advised to seek the advice and support of their union or professional association.
74. Suspension should be considered in all cases, with advice from other agencies where appropriate. It should be made clear to the staff member that this is a precautionary measure until investigations have been conducted. Where suspension does not take place, an assessment should be made as to whether a change of role is required until all investigations have been concluded.
75. The individual needs of the member of staff should also be reviewed at the end of the case. Staff who have been subjected to unfounded allegations will require emotional and professional support in order to enable them to re-establish their professional confidence and, where suspension has been applied, to help them to re-integrate into their working environment.
76. Information concerning the allegation should be handled confidentially and sensitively, and within the requirements of the law.

## Reporting cases to the Secretary of State for Children, Schools and Families

77. There are currently no legal requirements on HEIs to supply information to the Department for Children, Schools and Families (DCSF) where, for example, they have ceased to use the services of a person because they consider that the person is unsuitable to work with children. However, HEIs are encouraged to do so if they have ceased to use a person's services for this reason. Additionally, under the Protection of Children Act 1999, there is a power for 'other organisations' (including HEIs) to refer individuals working in child care positions to the DCSF where they have been dismissed, suspended or otherwise ceased to use the services of a person in a childcare position on the grounds of misconduct (whether or not in the course of their employment) which harmed a child or placed a child at risk of harm.
78. Under the new Independent Safeguarding Authority Scheme, those engaging people in 'regulated activity' will be required to refer certain information to the Independent Safeguarding Authority where there is an established reason to believe the person has harmed or poses a risk of harm to children or vulnerable adults. The exact nature of these duties will be clarified in forthcoming guidance and regulations.

# Section 4: Staff: Recruitment and Vetting

## Introduction

79. The vast majority of people who work with children act professionally and aim to provide a safe and supportive environment which secures the well-being and best outcomes for children and young people in their care. HEIs recognise the need to ensure that the people they employ are suitable for the work and do not pose an undue risk.
80. This Section sets out the steps that HEIs can take to minimise the risk of employing unsuitable staff, and how to use the information gathered about potential postholders. It also looks at the use of external organisations such as employers and contractors. Recruitment and selection, employment issues or contract tendering and management are, of course, issues for HEIs themselves to determine and this Section is not a comprehensive guide to these issues or to general employment issues.
81. This Section does not cover the recruitment and vetting of students as workers (e.g. volunteers in outreach activities, student associates, mentoring schemes) or as undergraduate or postgraduate entrants. These matters are covered in Section 5.

## The recruitment process

82. Safer practice in recruitment means thinking about and including issues to do with child protection and safeguarding children at every stage of the process. It starts with the process of planning the recruitment exercise and, where the post is advertised, ensuring that the advertisement makes clear the organisation's commitment to safeguarding children. It also requires a consistent and thorough process of obtaining, collating, analysing and evaluating information from and about applicants. Main elements of the process include:
  - Ensuring the job description (and advertisement where appropriate) makes reference to the responsibility for safeguarding and promoting the welfare of children;
  - Ensuring that the person specification includes specific reference to suitability to work with children;
  - Obtaining and scrutinising comprehensive information from applicants, (including a full employment history and references), and taking up and satisfactorily resolving any discrepancies or anomalies;
  - Obtaining independent professional and character references that answer specific questions to help assess an applicant's suitability to work with children and following up any concerns;

- A face-to-face interview that explores the candidate's suitability to work with children and young people as well as his or her suitability for the post;
  - A Disclosure at the appropriate level via the CRB; and
  - Further checks as appropriate where obtaining a CRB Disclosure is not sufficient to establish suitability to work with children.
83. The application form for appointment can include a signed statement from the candidate to the effect that there is no information he/she should disclose relating to criminal activity, or alternatively that any significant information is enclosed with the application form outlining the detail of anything likely to be disclosed by the CRB Disclosure or other checks.
84. To avoid considering irrelevant information and making unfair pre-judgements, any self-disclosure should be in a sealed envelope and should not be opened unless and until the candidate is called to interview.
85. CRB's Code of Practice requires that all registered bodies should have a policy on Recruitment of Ex-Offenders. The Code of Practice is available at [www.crb.org.uk/PDF/code\\_of\\_practice.pdf](http://www.crb.org.uk/PDF/code_of_practice.pdf).

### Case study

At University of Sunderland, when a vacancy arises, the University considers whether the role is one which would require a CRB check. If a Disclosure is considered necessary, the advertisement for the vacancy indicates that a CRB Disclosure will be sought for the successful candidate. Also, the University's application form requires applicants to disclose the details of any unspent convictions (which can be done discreetly by a letter addressed to a senior Human Resources Adviser). A record of all Disclosures is maintained on a confidential central file held within the Human Resources Department.

## Types of check to undertake

### Introduction

86. HEIs commonly undertake a range of pre-recruitment checks on prospective staff and contractors. These typically include identity checks; academic qualifications; professional and character references; previous employment history; and a criminal record check. Not all of these will be involved for every post: much will depend upon the HEI's normal practice and assessments about the level of risk.
87. There are no regulations aimed specifically at HEIs requiring them to carry out checks on an employee's criminal record, or obtain Disclosures through the CRB Disclosure scheme. (There are, however, generally applicable regulations, the most relevant of which concern staff employed in crèches and nurseries – see paragraphs 105 -106). However, it is sensible to undertake checks where the law permits, as it is a way of minimising risk.

**Case study**

Institute of Education, University of London, has a written policy on the recruitment of ex-offenders. This is made available to all those needing CRB Disclosures at the start of the recruitment process, through inclusion in the prospectus. The policy is also sent to applicants with the CRB application pack after acceptance.

**CRB Disclosures**

88. CRB Disclosures can provide information about a person's previous criminal convictions or cautions and whether he/she has been barred from working with children (either on List 99 or the PoCA list). In order to obtain a CRB check, an HEI must be registered with the CRB or engage the services of an "umbrella body" – a body that is registered with the CRB and which provides the service for other organisations. The applicant then applies via the HEI. CRB Disclosures should be obtained before, or as soon as practicable after, appointment.

**Standard Disclosures**

89. Standard Disclosures show spent and unspent convictions and cautions. Section 113A of the Police Act 1997 (Part V) provides details about obtaining Standard Disclosures. Standard Disclosures are available only to people seeking or already involved in paid or voluntary work or training which is excepted from the Rehabilitation of Offenders Act 1974. HEIs therefore need to make sure that they are not asking for CRB Disclosures unless they are doing so in connection with a position that is excepted under the Act. Exceptions are set out in the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, and, for present purposes, the most relevant exception relates to work in a 'regulated position' under the Criminal Justice and Court Services Act 2000 (CJCSA).

**Enhanced Disclosures**

90. Enhanced Disclosures also show spent and unspent convictions and cautions. However, in addition to these, the Police may also provide details of acquittals or other non-conviction information held on local police records which are relevant to the job or voluntary position being sought. Section 113B of the Police Act 1997 (Part V) governs Enhanced Disclosures. The key difference between the conditions relating to Standard Disclosures and Enhanced Disclosures is that an Enhanced Disclosure must be in connection with a 'prescribed purpose', i.e. one which is prescribed under the Police Act 1997 (Criminal Records) Regulations 2002. For present purposes, a 'prescribed purpose' is most likely to be one which involves consideration of an individual's suitability to work in a position which involves 'regularly caring for, training, supervising or being solely in charge of persons aged under 18'.

**What type of Disclosure to obtain**

91. The decision on whether or not to obtain a Disclosure and, if so, the level of Disclosure to obtain, will be informed by an assessment of the risk. Where contact is solely with young people who are just short of their 18th birthday, the action that HEIs might take is likely to be different to the action they will take if much younger people are involved. The level of risk is also influenced by the nature and number of contacts with children that are likely to take place.

92. Most, if not all, 'regulated positions' under CJCSA are likely to also fulfil the requirements for an Enhanced Disclosure and we strongly recommend that consideration is given to obtaining an Enhanced Disclosure where the law permits. This helps to create a culture of safeguarding by demonstrating that the HEI is taking every measure possible to ensure that staff are suitable to work with children, as well as providing extra safeguards.

### Case study

At University of Durham, a CRB Disclosure at Enhanced level is required for:

- all posts working in the University day nursery;
- all posts involved in summer schools;
- those posts in the School of Education where visits to schools are an integral part of the post;
- all posts in the Science Learning Centre;
- some posts working in sport; and
- any other posts that may include regular and/or unsupervised contact with children and vulnerable adults.

### Cost

93. There is a charge for CRB Disclosures. For up to date information, see [www.crb.org.uk/default.aspx?page=1863](http://www.crb.org.uk/default.aspx?page=1863). It will be up to HEIs to decide whether or not they wish to reimburse the applicant or pay on his or her behalf. Eligible volunteers are not charged by the CRB for a Disclosure.

### The Independent Safeguarding Authority Scheme

94. The Safeguarding Vulnerable Groups Act 2006 provides the legislative basis for the forthcoming Independent Safeguarding Authority Scheme. The scheme will replace existing arrangements available through List 99 and the Protection of Children Act list (and the Protection of Vulnerable Adults list).
95. The overriding aim of the Independent Safeguarding Authority Scheme will be to help avoid harm, or risk of harm, to children (and vulnerable adults) by preventing those who are considered to pose a risk of harm from gaining access through their work. It will do so by:
- providing employers with a more effective and streamlined vetting service for potential employees; and
  - barring unsuitable individuals from working, or seeking to work, with children (and/or vulnerable adults).
96. The new scheme will provide a single list of people barred from working with children (the children's barred list), replacing List 99 and the PoCA List.<sup>6</sup> Responsibility for barring decisions will lie with a new Independent Safeguarding Authority, which will be an independent statutory body.

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<sup>6</sup> There is a separate list of people unsuitable to work with vulnerable adults.

97. The scheme will be introduced on a phased roll-out. Once fully operational, any person seeking to work in regulated activity will need to be a member of the scheme before they can engage in the activity. Being a member of the scheme means that they have been initially vetted by the Independent Safeguarding Authority and there is no known reason to believe that the person poses a risk of harm to children or vulnerable adults.
98. Before permitting a person to engage in regulated activity (whether paid or unpaid), the employer will be required to check that the person is a member of the scheme. Once the new Independent Safeguarding Authority Scheme has been introduced, it will be a criminal offence to employ a person who is not a member of the scheme to work with children or vulnerable adults.
99. HEIs will want to ensure that they keep up to date with developments for the new Scheme. The website [www.isa.gov.org](http://www.isa.gov.org) contains information, factsheets, FAQs and other useful documents. A series of free information sessions are being run throughout 2007 and 2008, details of which are available at [www.isa.gov.org](http://www.isa.gov.org). HEIs can also receive free email updates.

### *The CRB Disclosure scheme after the introduction of the Independent Safeguarding Authority Scheme*

100. The CRB Disclosure scheme will continue following the introduction of the Independent Safeguarding Authority Scheme. This means that HEIs will still be able to check the criminal backgrounds of prospective and existing staff, where appropriate. There may be some circumstances in which it will be mandatory to undertake CRB checks, and details of these circumstances will be published in due course. In other cases, it will be permissible to undertake a CRB check at any level for anyone who is undertaking 'regulated activity' as defined by the new Independent Safeguarding Authority Scheme. Further guidance on when HEIs might wish to do so will be published in due course. The definition of 'regulated position', as defined within CJCSA, will be subsumed by the broader definition of regulated activity in the Independent Safeguarding Authority Scheme.

### **List 99/Protection of Children Act (PoCA) List**

101. List 99 is a confidential document maintained by the DCSF, which contains the names, dates of birth, National Insurance numbers and, in the case of teachers, the teacher reference number, of people whose engagement in relevant employment has been barred or restricted by the Secretary of State for Children, Schools and Families. It is an offence to knowingly offer work in a regulated position to someone who has been disqualified from working with children. A person whose employment has been restricted by the Secretary of State for Children, Schools and Families may only work in a post which does not contravene the terms of the restriction. Details of regulated positions and employment are set out in the CJCSA.
102. The PoCA list was established by the Protection of Children Act 1999. It is a list of people who the Secretary of State for Children, Schools and Families considers to be unsuitable to work in childcare positions.

103. List 99 and PoCA List checks are usually completed as part of the CRB Standard and Enhanced Disclosure request. It is important when completing a CRB Disclosure request that the relevant statement is ticked on the Disclosure form confirming that the employment involves working with children. When the person applies for a CRB Disclosure to verify their suitability to work with children the Disclosure will contain details of whether they are included in List 99 and/or the PoCA List. Information on checking List 99 pending a CRB Disclosure is available from [Tsm.Casework@dcsf.gsi.gov.uk](mailto:Tsm.Casework@dcsf.gsi.gov.uk) (telephone 01325 392101).
104. It is also possible in certain circumstances to check a person's name against the PoCA and List 99 lists through means of a child suitability certificate as provided for under Section 113C of the Police Act 1997 (Part V). These are only available when considering a person's suitability for certain types of work as set out in Section 113C. Of most relevance are posts involving work set out in paragraph 3, Section 142 of the Education Act 2002. These are posts which (a) bring a person regularly into contact with children, and (b) are carried out at the request of, or with the consent of, a relevant employer (whether or not under a contract).

## Categories of people to be checked

### Crèches and nurseries

105. Some HEIs have their own crèches or nurseries for staff and/or students. Crèches and nurseries providing care for children under the age of 8, for 2 or more hours per day and 6 or more days per year, are required under the Children Act 1989 to register with and be inspected by Ofsted and to operate using the national standards for under 8s day care and childminding. The standards include a requirement that adults providing child care, looking after children, or having unsupervised access to them, are suitable to do so. The suitable person check, to which these adults must submit, includes Enhanced CRB Disclosures, identity checks and a range of other background checks. The standards can be found at [www.surestart.gov.uk/improvingquality/ensuringquality/inspectionandregulation](http://www.surestart.gov.uk/improvingquality/ensuringquality/inspectionandregulation). Other settings are covered by the requirement that staff are not barred through inclusion on the PoCA list – and the only way to check if someone is included in the PoCA list is through an Enhanced Disclosure.
106. From September 2008, there will be new arrangements for registering childcare provision under the Childcare Act 2006, and it will be important for HEIs which have a crèche or nursery to be familiar with these arrangements. Most childcare provision for under 8s will be required to be registered, and will be inspected by Ofsted. In addition, other childcare may be able to be registered on a voluntary basis. Childcare provision for children from birth to age 5 will have to meet the Early Years Foundation Stage framework requirements. These include Enhanced CRB Disclosures for everyone working with children or having unsupervised access to children. Details can be found at [www.teachernet.gov.uk/teachingandlearning/EYFS/](http://www.teachernet.gov.uk/teachingandlearning/EYFS/). There will be comparable requirements for childcare provided to children aged over 5. Those working in childcare settings will also be required to be members of the forthcoming Independent Safeguarding Authority Scheme.

**Case study**

At Birkbeck College, University of London, all nursery staff are subject to a criminal records Disclosure before taking up employment. Agency staff are required to have been vetted by their agency and the agency is required to provide evidence that this has taken place. Other staff who work with children at Birkbeck, or who visit children off-site, for example in homes, are also subject to the CRB Disclosure process.

**Case study**

At University of Durham, the nursery has a range of documented policies and procedures in order to comply with the terms of its Ofsted registration. These include child protection, special educational needs and behaviour management policies. These policies and procedures are maintained in line with the requirements of the *National Standards for Under Eights Day Care and Child Minding*. The nursery's compliance with this guidance is subject to inspections as part of Ofsted's compliance monitoring process. The nursery follows the *Every Child Matters* agenda and, where appropriate, works with partnership agencies to deliver the agenda. SureStart County Durham provides ongoing staff training to ensure that all policies and procedures remain up to date.

**Staff who have worked overseas**

107. It may be more difficult to undertake checks on applicants who have spent time overseas. CRB Disclosures may not be sufficient on their own. In such circumstances it may be helpful to ask specific questions when taking up references from previous employers so that some level of assurance is obtained. Checks can sometimes be made with relevant authorities abroad, for example by obtaining certificates of good conduct from embassies or police forces. The level of information contained in these certificates varies from country to country. Some are complete extracts from the criminal record: others are partial. Further information about the criminal record information which may be obtained from overseas police forces and countries is available from the CRB at [www.crb.org.uk/Default.aspx?page=2243](http://www.crb.org.uk/Default.aspx?page=2243).
108. Where an applicant is from, or has lived in, a country where criminal record checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK, and has no means of obtaining relevant information, HEIs should take extra care in taking up references and carrying out other background checks. For example, additional references may be advisable, and references followed up by phone as well as letter.

**Contractors**

109. As with staff and volunteers, much depends on the level of risk. Where the situation warrants it, HEIs should ensure that the terms of any contract they award also requires the contractor to undertake appropriate checks on its own staff. HEIs should, in these circumstances, monitor the contractor's compliance.

110. However, there may be circumstances where there is not sufficient time for the staff of contractors to obtain Disclosures. In such circumstances, HEIs may wish to develop a Child Protection/Safeguarding Screening document which sets out a basic Code of Behaviour. An example, from Aimhigher Greater Manchester, is given at Appendix 6.

### Case study

At Birkbeck College, University of London, research work with children requires approval on a project by project basis by relevant Research Ethics Committees which, as part of this process, review the arrangements in place for safeguarding the safety and welfare of the children involved. The research ethics approval process is overseen and monitored by the college Research Ethics Committee which reports directly to the college's governing body. It is chaired by an external expert and involves independent governor representation.

### Uncertainty about the likely age of undergraduates on a future course

111. HEIs may be uncertain as to whether a course will attract applicants who are under 18 and, if so, how many such applicants will be successful. This may lead to uncertainties over whether particular staff should obtain a Disclosure. If the pattern of enrolments changes over time, clearly the 'normal' or 'regular' duties may change and the post may at some point become excepted. It is for HEIs to make that judgement in individual cases.

### Existing staff

112. It may be that an HEI wishes to ask an existing member of staff, student or other volunteer to apply for a CRB Disclosure. Situations where this might occur include:
- A person moves to work that involves greater contact with children and young people;
  - The amount and/or type of contact with young people changes in their existing post, for example as an extension of outreach activity or as a result of new initiatives with schools;
  - A partner, such as a school, with whom the person works, requests it; or
  - They have concerns about a person's suitability to work with children.
113. It is not uncommon for individuals to become anxious about the CRB process regardless of whether they have any pertinent convictions or cautions. Some HEIs are uncertain as to whether they can conduct checks on existing staff. Much depends of course on the terms of their contracts of employment (and, in the case of contractors, the terms of the contract between the two organisations). In most cases, staff are likely to give their consent once the reasons have been explained and appropriate reassurances given. The involvement of appropriate Trade Unions or staff associations is likely to be helpful in this respect.
114. However, where the risk warrants it, other action, such as rearranging duties, may be necessary if agreement cannot be secured. This is likely to be rare and such activity should be undertaken in line with the HEI's employment policies and contracts.
115. Following the introduction of the new Independent Safeguarding Authority Scheme, all individuals in 'regulated' or 'controlled' activity will be required to be members of the scheme. This will include, in due course, existing members of staff in those positions.

## Rechecking

116. A CRB clearance is only current on the day it is produced. Re-checking is not generally considered to be necessary providing continuity of employment is maintained and circumstances do not change.

## People in 'regulated activity' or 'controlled activity' when the Independent Safeguarding Authority Scheme becomes operational

117. When the new Independent Safeguarding Authority Scheme is launched, an employer will, before permitting a person to engage in 'regulated' or 'controlled' activity, check that the person is not barred from such activity under the Independent Safeguarding Authority Scheme, and that the person has made him/herself subject to monitoring. This means that, if and when any new information regarding the person is brought to the attention of the Independent Safeguarding Authority, the person's status will be reviewed and they may become barred. If a person does become barred, any employer with a registered interest in the person will be notified, and will be required to remove permission for that person to engage in regulated activity. A barred person may engage in controlled activities if appropriate safeguards, which will be defined through guidance and regulations, are put into place.

## Further information

118. Further information about the CRB and its service can be found at [www.crb.org.uk](http://www.crb.org.uk). Alternatively, the CRB can be contacted by post or telephone. The CRB's address is PO Box 110, Liverpool L69 3EF. The information line number is 0870 90 90 811 and the registration application line for organisations wishing to register to authorise checks is 0870 90 90 822.
119. Further information about the Independent Safeguarding Authority Scheme is available at [www.isa-gov.org](http://www.isa-gov.org).

# Section 5: Students: Recruitment and Vetting

## Introduction

120. This Section needs to be read in conjunction with Section 4, which provided details about CRB Disclosures and the Independent Safeguarding Authority Scheme.
121. This Section provides guidance on the recruitment and vetting of students. Vetting is often necessary for students who are undertaking courses that involve contact with children as part of the curriculum. Some professional bodies, such as those in the teaching profession, have statutory or other regulations for the vetting of undergraduate students before entry. HEIs are likely to be familiar with these arrangements.
122. Students are also a valuable part of the HEI's workforce. Most HEIs have outreach programmes which involve students in a paid and/or voluntary capacity, and contact with young people is an integral feature of these programmes.
123. In some cases, students are paid by a school or college, for example when they mentor young people. In such cases, the students become members of the school or college workforce and particular regulations may apply.

## Students as workers

124. In safeguarding terms, there is very little difference between students as workers and the rest of the HEI's workforce. The key issue in considering whether or not to undertake CRB checks is not the status of the worker, nor whether the post is paid or voluntary, but is the level of risk. The Department recommends that CRB checks should be considered in all cases where the law permits. This is likely to include all posts that are defined as 'regulated positions' under the CJCSA, including voluntary posts.

## Volunteers

125. Student volunteers are a valuable source of help in many situations, especially connected to outreach activities. Most HEIs have student ambassadors, for example. Where student volunteers are concerned, a decision about the need for a CRB check and the level of any check undertaken should be made on the basis of the likely risk and what is known about the volunteer. A key consideration will be the frequency and nature of the contact. We strongly recommend that a volunteer should always obtain an Enhanced Disclosure if he or she has unsupervised access to young people.

## Mentoring

126. There may be particular risks associated with mentors (paid and unpaid) who often establish one-to-one working relationships with those whom they mentor. Mentoring can be through personal visits, telephone and email contact, or a combination of these methods. It is not uncommon for young people to be strongly attracted to a mentor and/or develop a sexual infatuation. Such circumstances carry a high risk of actions or words being misinterpreted and allegations made. HEIs may want to develop specific codes of practice for handling one to one situations which cover, for example, location, visual access, length of meetings, frequency, and reporting situations. A CRB Disclosure at Enhanced level is likely to be appropriate in every case. Schools and FE colleges will be aware of these regulations, and details can be found in *Safeguarding Children and Safer Recruitment in Education*, available at [www.everychildmatters.gov.uk/\\_files/AD6343FE3EF01D9FC86617FE11940A48.pdf](http://www.everychildmatters.gov.uk/_files/AD6343FE3EF01D9FC86617FE11940A48.pdf).

## Undergraduates and others who are paid by schools and colleges

127. In some mentoring and other outreach schemes, undergraduates are paid by a school or FE college and the individual therefore becomes a member of the school or college workforce. (For example, in some mentoring schemes, the HEI finds undergraduates for a scheme where the undergraduates are paid by the school or college.) New Regulations set out requirements for all new appointments to the schools' workforce to undergo various recruitment and vetting checks, which include a CRB Disclosure at Enhanced level. The same requirements apply to some posts in FE colleges.

## Students aged under 18 undertaking work placements

128. Where undergraduate students aged under 18 are undertaking work placements as part of the curriculum, HEIs should regard safeguarding children in a similar way to health and safety. When considering possible placements of any type, HEIs should always ensure that placements are generally suitable and that an assessment of the health and safety risks has been made, together with a recognition of any other implications for the students' welfare. Amongst other things, the extent of risk will be influenced by:

- The duration of the placement. Long-term placements are likely to be higher risk;
- Whether the young person is vulnerable;
- Whether the nature of the business means that the young person might be left alone with an adult; or
- Whether the placement has a residential component.

129. In some workplaces, the placement supervisor may already have obtained a CRB Disclosure because of the nature of the post. If not, HEIs and the employer might consider whether it is appropriate to obtain one. Other safeguards should otherwise be considered according to the nature and level of risk.

## Applicants for under-graduate or post-graduate study

130. There are a range of circumstances in which HEIs might need to check the criminal background of a prospective student. As with all other cases, CRB Disclosures can only be sought for posts which are excepted from the provisions of the Rehabilitation of Offenders Act 1974.
131. Some professional bodies have explicit requirements, underpinned by statute, that entrants to the profession must obtain Disclosures. Guidance is given below, but HEIs are likely to be familiar with these circumstances.
132. There may be other cases too where HEIs think it wise to ask for a Disclosure. As with the other areas of safeguarding, the key issue is the level of risk. Key considerations are likely to be:
  - a. The circumstances: What will be the nature of any contact with young people, when will it occur, and will there be any one-to-one contact?
  - b. The young people: What will be the age of the young people, and their circumstances?
133. Another area of concern is that of potential student-to-student abuse. The issue of students as workers, an obvious area of potential risk, has been covered earlier in this Section. However, there are other areas where students aged under 18 might be at risk from other students such as in student accommodation, on social activities and during one-to-one activities such as mentoring. Potential student-to-student abuse is one aspect to consider in risk assessments. The key is to ensure that safeguarding is part of the culture of the organisation and that a Code of Conduct takes into account student-to-student contact.<sup>7</sup>

## Obtaining information

134. The UCAS application form asks applicants to declare any relevant criminal convictions. Relevant criminal convictions are only those convictions for offences against the person, whether of a violent or sexual nature, and convictions for offences involving unlawfully supplying controlled drugs or substances where the conviction concerns commercial drug dealing or trafficking. Spent convictions are not considered relevant unless the application is for a course in teaching, health, social work, veterinary medicine, veterinary science or courses involving work with children or vulnerable adults.
135. In some cases, HEIs own application forms for undergraduate and postgraduate study may ask for the same information as does the UCAS form. In other cases, HEIs obtain information directly from applicants where appropriate. Applicants may also be required to obtain a CRB Disclosure in relevant circumstances.
136. Where the application form, or other checks, reveal a relevant criminal conviction, caution, reprimand, final warning or bind-over order, HEIs should assess the information before deciding what action to take. As well as possible implications for course entry, there may be implications for accommodation in halls of residence and other aspects of student life.

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<sup>7</sup> See also paragraph 50 above which deals with sexual offences and abuse of position of trust.

137. Where an applicant for a programme of study is required to provide a CRB Disclosure, or have any other background checks undertaken, HEIs should ensure that any offer of a place is conditional upon the Disclosure and other checks being satisfactory.

### Case study

At University College London (UCL), in the case of undergraduate applicants declaring a criminal conviction on their UCAS form or UCL affiliate application form, an Assessment Panel (consisting of the Senior Tutor, Dean of Students and Head of Admissions) is convened to consider the case. The panel makes an assessment prior to the official offer of admission being transmitted to UCAS. The panel conducts a risk assessment and considers actions that could practicably be taken to address any identified risks without detriment to the applicant's ability to pursue their chosen programme of study. The panel will then either:

- authorise the admission of the student subject to the academic decision of the relevant admissions and faculty tutor. Such authorisation may impose conditions. Conditions are set out in the offer letter.
- Recommend that the student not be admitted, giving reasons.

In the case of postgraduate admissions, the Panel makes its assessment once the applicant has replied to their offer of admission. The outcome is either to confirm or withdraw the offer. The Panel also considers any convictions received between offer and enrolment. In the case of decisions against admission, the applicant has the right of appeal to the Provost.

### Students undertaking work placements where children will be present

138. Some courses will involve students undertaking placements as part of the training where children and young people will be present. Examples may include teaching, nursing, midwifery, social work, radiography, physiotherapy, dietetics, sports therapy, exercise science, psychology, music/art therapy and, in some cases, hospitality and tourism management. In these circumstances the placement provider, the HEI and the student may each owe a duty of care to the child. Placement providers should not, in any circumstances, leave any child or children in the sole care of an individual student without suitable and proper supervision from a fully qualified professional e.g. teacher, nurse or social worker. Placement providers should be aware that, ultimately, the responsibility for safeguarding the children in their care remains with them.
139. When considering possible placements of any type, HEIs should always ensure that placements are generally suitable and that an assessment of the health and safety risks in relation to the student has been made, together with a recognition of any other implications for the students' welfare. HEIs should ensure that they, the placement provider and their students have regard for safeguarding children in the placement and that the student has read and fully understood the safeguarding/child protection, health and safety and other relevant policies provided by the placement provider. Any potential risks to the student and children should be considered as part of the initial assessment of health, safety and welfare. It would be wise to undertake a risk assessment with every placement provider where children will be present.

140. HEIs should also ensure that all necessary suitability checks on the student, including where necessary a CRB check, have been carried out and both the HEI and placement provider believe that the student is suitable to undertake the placement.

## Initial Teacher Training

141. For applicants for initial teacher training, the initial teacher training provider should ensure that an Enhanced Disclosure is applied for when a place on a teacher training course has been accepted, so that Disclosures are received prior to the trainee commencing school and FE college-based elements of their training. However, Head Teachers and Principals will have discretion to allow an individual to begin school and FE college-based training pending receipt of the Disclosure, provided that they have had a List 99 check. Where this is necessary, training providers, head teachers and principals must ensure that the trainee is adequately supervised.<sup>8</sup>

### Case study

At University of Plymouth, all students in the Faculty of Education involving placement in schools are required to secure an Enhanced Disclosure prior to beginning a school placement; any offer of a place issued prior to receipt of a Disclosure is conditional on a satisfactory check. All students in the Faculty of Health and Social Work on programmes involving placements in the healthcare professions in positions which would require an Enhanced Disclosure are required to secure an Enhanced Disclosure prior to beginning placement experience; any offer of a place issued prior to receipt of a Disclosure is conditional on a satisfactory check. Students are required to complete a self declaration annually confirming there are no changes in their status. All undergraduate students in the Peninsular Medical School are required to secure an Enhanced Disclosure on the same terms; postgraduate students are required to secure a Disclosure only if they are not already employed in the healthcare professions and are studying on a programme which would involve unsupervised contact with children or vulnerable adults. Student volunteers acting as mentors in local schools are required to secure Enhanced Disclosures.

## Training for courses in childcare

142. CRB checks are mandatory for NHS staff whose normal duties involve access to patients, in line with Department of Health's Standards for Better Health. NHS staff who work with children are also required to be checked against the PoCA list.

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8 From September 2008, there is likely to be a requirement that trainee teachers make a 'Provisional Registration' with the General Teaching Council (GTC) to help ensure professional suitability. As part of the provisional registration, individuals will be required to declare their criminal backgrounds. HEIs will need to keep up to date with the requirements of the GTC.

## Nursing and Midwifery

143. The Nursing and Midwifery Council sets standards for nursing and midwifery education, performance, ethics and conduct. References are included in the UCAS application material when students apply for a pre-registration programme. Students should also obtain a CRB Disclosure on entry. Each year thereafter, the HEI should carry out a 'status check' with the student to ensure that the information obtained on the Disclosure is still correct. In most cases, this is done through a self-declaration from the student, although some HEIs are understood to ask for fresh CRB Disclosures.

## Social work

144. In order to offer the social work degree in England, course providers must apply for course accreditation with the General Social Care Council (GSCC). Social workers and social work students are required to register with the GSCC. The GSCC requires HEIs to undertake a number of checks on students, including CRB checks. More information is held at [www.gsc.org.uk](http://www.gsc.org.uk).<sup>9</sup>

## Students from overseas

145. It may be more difficult to undertake checks on applicants who have spent time overseas. CRB Disclosures, List 99 and PoCA list checks may not be sufficient on their own. In such circumstances it may be helpful to ask specific questions when taking up references from employers or referees so that some level of assurance is obtained. Checks can sometimes be made with relevant authorities abroad, for example by obtaining certificates of good conduct from relevant embassies or police forces. The level of information contained in these certificates varies from country to country. Some are complete extracts from the criminal record; others are partial. Further information about the criminal record information which may be obtained from overseas police forces and countries is available from the CRB at [www.crb.org.uk/Default.aspx?page=2243](http://www.crb.org.uk/Default.aspx?page=2243).
146. Where an applicant is from, or has lived in, a country where criminal record checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK, and has no means of obtaining the relevant information, HEIs should take extra care in taking up references and other background checks. For example, additional references may be advisable, and references followed up by phone as well as by letter.

## Rechecking

147. A CRB check is only current on the day it is produced. Rechecking may be necessary in areas of special risk or where new information about the postholder comes to light, and, for some courses, is a requirement of the relevant professional body. HEIs may also wish to require students to complete a self-declaration form annually confirming that there are no changes in their status. (A self-declaration helps the HEI to take action if an undeclared change in circumstances subsequently comes to light.)

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<sup>9</sup> The GSCC also requires students to confirm that they are of good character. Students must inform the GSCC about any current or previous disciplinary investigations or findings by a previous employer or educational establishment; previous or pending convictions and/or criminal proceedings including cautions or any current or previous orders. HEIs are involved in the collection of this information from students and its transmission to the GSCC. The information can indicate to HEIs the potential suitability of the student to work with children more broadly.

# Section 6: Using and Storing Information

## Introduction

148. HEIs will have gained a range of information about the suitability of a person (either staff or student) to work with children. The information needs to be assessed and decisions taken in the light of statutory regulations, professional body or other requirements, and the level of risk. Information also needs to be stored and managed in line with the law or other requirements.

## Applicants who are barred or who have restrictions placed on their employment

149. Anyone who is barred from work in the education sector on the grounds that he or she is unsuitable to be employed as a teacher or worker with children and young persons is also disqualified from all work with children in a regulated position as set out in CJCSA. It is an offence for a disqualified person to apply for, offer to do, accept or do any work in any of the regulated positions set out in the Act. It is also an offence for an employer to knowingly offer work in a regulated position, or to procure work in a regulated position, for an individual who is disqualified from working with children, or fail to remove such an individual from such work. The onus here is on applicants. For that reason, in order to provide an additional safeguard, the Department recommends that the standard requirement is that all applicants for 'regulated positions' should be asked to obtain a CRB Disclosure at Enhanced level. The CRB will inform the Police if a disqualified person attempts to obtain work with children.

150. As explained in paragraph 101, if a CRB Disclosure reveals that the Secretary of State for Children, Schools and Families has placed restrictions on a person's employment (on List 99), the person must not in any circumstances be placed in a post which would infringe those restrictions.

## Using the information to assess suitability

151. An applicant's suitability should be judged in the light of the results of all the relevant pre-appointment checks carried out on him or her. The fact that a person has a criminal record does not automatically make him or her unsuitable for work with children. Employers, in conjunction with the registered body or person authorised to receive Disclosure information, must make a judgement about suitability, taking into account only those offences which may be relevant to the particular job or situation in question. The Department cannot advise HEIs whether or not they should employ a particular person. In deciding the relevance of convictions, a number of points should be considered:

- **The nature of the offence:** in general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for work with children;
- **The nature of the appointment:** often the nature of the appointment will help to assess the relevance of the conviction. For example. Serious sexual, violent, drug or drink offences would give rise to particular concern where a position was one of providing care;
- **The age of the offence:** offences which took place many years in the past may often have less relevance than recent offences. However, convictions for serious sexual or violent offences or serious offences involving substance abuse are more likely to give cause for continuing concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation must be weighed against the need to protect children; and
- **The frequency of the offence:** a series of offences over a period of time is more likely to give cause for concern than an isolated, minor, conviction.

152. The CRB website contains guidance for employers on employing people with a criminal record, including judging the suitability of applicants. This is available at [www.crb.org.uk/PDF/3083\\_Employing\\_aw.pdf](http://www.crb.org.uk/PDF/3083_Employing_aw.pdf).

## Starting work

153. Ideally, where a CRB Disclosure is required, it should be obtained before an individual begins work. Where this is not practicable, HEIs will need to consider whether temporary action is needed to minimise risk, for example restricting the nature of the duties or enhancing the level of supervision. Other information obtained during the recruitment process, for example in references, can help to inform the decision. The arrangements should be reviewed regularly and should only be short term. The individual may also be given, and asked to sign, a Code of Conduct. In cases where an Enhanced CRB check has been requested, a List 99 check is recommended before an individual starts work.

## Storing information

154. The CRB's Code of Practice requires all Registered Bodies to have a written policy on the correct handling and safekeeping of Disclosure information. It also obliges Registered Bodies to ensure that a body or individual, on whose behalf they are countersigning Disclosure applications, has a written policy. To help Registered Bodies meet this requirement, the CRB has produced a sample policy statement, which can be used or adapted for this purpose. The Code of Practice, including the sample policy statement, is available at [www.crb.org.uk/PDF/code\\_of\\_practice.pdf](http://www.crb.org.uk/PDF/code_of_practice.pdf).

155. Records of all staff, indicating all appropriate checks, including identity, qualifications and CRB clearance, should be retained in a secure place within each section of the HEI. The CRB Code of Practice stipulates a maximum period of retention of 6 months. It is important to be very clear about precisely what records can be kept and where they should be kept. Information relating to a person's previous convictions is sensitive personal data. An assessment should be made about records security, depending on where they are being kept.

156. Records should also include a confidential section relating to any exceptional appointment that has been made, despite something appearing on a CRB Disclosure. Recording of information in this section should not include any specific references to information gained directly from the Disclosure. Where an appointment has been made or confirmed following further consideration or following discussions with the individual, no reference to conviction or police data should be made.

### **Case study**

Institute of Education has a Policy Statement on the Secure Storage, Use, Retention and Disposal of Disclosures and Disclosure Information. The key headings are:

- Storage and Access
- Handling
- Usage
- Retention; and
- Disposal.

# Appendix 1: Legislation and Other Information

This appendix provides details about some of the important pieces of legislation, duties and guidance with which HEIs will wish to familiarise themselves. At the present time, there is no law in the area of safeguarding which is specific to HEIs. There is, however, general law. HEIs will want to consult their own legal advisers to identify the legal duties appropriate to their own circumstances.

## Legislation

### Children Act 1989

Local authorities have two key duties in this area. *Section 17* provides that local authorities have a duty to safeguard the welfare of children who are in need and they must promote the upbringing of such children by their families. Local authorities must provide a range and level of services appropriate to those children's needs. *Section 47* places a duty on local authorities with social services responsibilities to make inquiries where they have reasonable cause to suspect that a child in their area is likely to be or is suffering significant harm. This is the section that authorises Social Services to investigate concerns about child abuse.

The police and the NSPCC are the only other bodies that may initiate proceedings under the Act.

### Children Act 2004

**Section 10** requires each local authority to make arrangements to promote co-operation between the authority, each of the authority's relevant partners and such other persons or bodies, working with children in the local authority's area, as the authority consider appropriate. The arrangements are to be made with a view to improving the well-being of children in the authority's area – which includes protection from harm or neglect alongside other outcomes. This underpins the Children's Trust arrangements.

**Section 11** requires a range of organisations (not including HEIs) to make arrangements for ensuring that their functions, and services provided on their behalf, are discharged having regard to the need to safeguard and promote the welfare of children.

**Section 13** requires a local authority to establish a Local Safeguarding Children's Board for their area and a range of organisations (not including HEIs) to take part in Local Safeguarding Children Boards. Sections 13-16 set out the framework for LSCBs, and the Local Safeguarding Children's Board Regulations 2006 set out the requirements in more detail in regard to particular LSCB functions.

## **Criminal Justice and Court Services Act 2000**

The CJCSA, as amended by the Criminal Justice Act 2003, provides for people to be disqualified from working with children in certain circumstances. People who are disqualified from working with children are prohibited from applying for, offering to do, accepting, or doing, any work in a 'regulated position'. A regulated position includes a position whose normal duties include caring for, training, supervising or being in sole charge of children. A person is disqualified from working with children if he/she is included in either List 99 on grounds of unsuitability to work with children or in the PoCA list. CRB Disclosures are the normal means by which employers can check if an individual is disqualified.

## **Data Protection Act 1998**

The Data Protection Act 1998 requires that information is obtained and processed fairly and lawfully; that it is only disclosed to third parties in certain circumstances; that it is accurate, relevant and not held longer than is necessary; and that it is kept securely. The certain circumstances in which the Act allows for disclosure to third parties without consent include:

- the prevention and detection of crime;
- the apprehension or prosecution of offenders;
- where failure to disclose would be likely to prejudice those objectives in a particular case.

The Act does provide exemptions allowing for information to be shared when balancing risk to young or vulnerable persons against individual rights and freedoms including the right to privacy. However, if such exemptions are used, it is important that HEIs follow appropriate procedures, including proper record keeping.

## **Education Act 2002**

Section 175 of the Education Act 2002 places a duty on local authorities, governing bodies of maintained schools and governing bodies of further education institutions to exercise their functions with a view to safeguarding and promoting the welfare of children. It also requires those bodies to have regard to any guidance issued by the Secretary of State for Children, Schools and Families for this purpose. The duties upon schools and further education (FE) institutions to safeguard and promote the welfare of children are confined to children who are pupils at the school or who are receiving education at the further education institution. However, the Courts may take the view that children and young people attending the HEI as part of school or college-arranged outreach activities fall within the scope of these duties. Schools and colleges using HEIs may have expectations of the HEIs in terms of safeguarding provision.

Sections 142 and 143 of the Act set out the confidential list of people (known as List 99) who the Secretary of State for Children, Schools and Families is empowered to direct that persons may not be employed by local authorities, schools (including independent schools) or further education institutions as a teacher or in work involving regular contact with children under 18 years of age. List 99 includes details of people the Secretary of State for Children, Schools and Families has directed cannot be employed or can only be employed subject to specific conditions. Employers in the education sector are under a duty not to use a person who is included in List 99. It is important to note that HEIs are not part of the 'education sector' considered in Sections 142 and 143. It is also important to note that these Sections will be repealed by the Safeguarding Vulnerable Groups Act when it is brought fully into force.

Local authorities, schools, further education institutions and other employers, have a statutory duty to make reports to the Department for Schools, Children and Families (DCSF) if they cease to use a person's services on grounds of misconduct or unsuitability to work with children, or someone leaves in circumstances where the employer might have ceased to use their services on one of those grounds. The police also make reports to DCSF if a teacher or other member of staff at a school is convicted of a criminal offence.

### **Police Act 1997**

This Act makes provision for the system of disclosure of information from criminal records that is currently operated by the Criminal Records Bureau. The system was designed to improve access to information about potential employees seeking work with young people or other vulnerable groups, and to make that information available on a wider basis than previously. Further information about the CRB and criminal record Disclosures is available from [www.crb.gov.uk](http://www.crb.gov.uk).

### **Police Act 1997 (Criminal Records) Regulations 2002**

These regulations define 'prescribed purposes' under which CRB Disclosures at Enhanced level may be obtained. They also set out the scale of charges for CRB Disclosure certificates.

### **Protection of Children Act 1999**

This Act provides that the Secretary of State for Children, Schools and Families must maintain a list of people who are considered unsuitable to work with children in childcare positions. It imposes a duty on 'child care organisations' to check the names of individuals applying for 'child care positions' against the PoCA and List 99 lists. 'Child care position' has the same meaning as 'regulated position' in the CJCSA. Child care organisations in the regulated sector are required to make a referral to the Secretary of State for Children, Schools and Families in specified circumstances, for example if they dismiss a person for misconduct, which has harmed a child or put a child at risk of harm, or if a person resigns in circumstances where he/she might have been dismissed for that reason. Other organisations that employ childcare workers can also make reports in those circumstances, but do not have to do so.

HEIs are likely to be asking staff engaged in 'child care positions' to obtain CRB Disclosures. Provided that they confirm that the applicant will be working with children, these Disclosures include details of any entry on List 99 and PoCA lists.

### **Rehabilitation of Offenders Act 1974**

This Act provides that, after a certain period of time, many of an individual's criminal convictions become 'spent'. The period of time varies according to the punishment imposed by the sentencing court. At present, Disclosure by the CRB at Standard or Enhanced level will reveal spent convictions. A prospective employer can only ask an individual to reveal his or her spent convictions if the position that the person is being considered for falls within one of the exceptions to the provisions to the Rehabilitation of Offenders Act.

There are many exceptions to the Rehabilitation of Offenders Act. Of particular relevance to working with children are 'regulated positions' as defined by the CJCSA (see below).

## Rehabilitation of Offenders Act 1974 (Exemptions Order) 1975

The Order sets out circumstances in which individuals may be asked questions about spent convictions. It also sets out exceptions to protection afforded to ex-offenders set out in the Rehabilitation of Offenders Act 1975.

## Safeguarding Vulnerable Groups Act 2006

The Act provides the legal basis for the new Independent Safeguarding Authority Scheme. The scheme will not replace the system of CRB Disclosures although there will be changes to the circumstances in which CRB disclosures may be obtained. The Protection of Children Act List and List 99 will be replaced by a single list of people barred from working with children (the new children's barred list). There will be a separate but aligned list of people barred from working with vulnerable adults (the new adults' barred list).

Under the Act a person will have to be a member of the scheme before he/she can undertake any paid or voluntary work in a 'regulated activity' with children or vulnerable adults. If the person has been convicted of, or cautioned for, certain criminal offences that make him/her unsuitable for work with children or with vulnerable adults he/she will be barred from undertaking that work. Similarly if convictions or any other information comes to light that calls into question a person's suitability for such work the Independent Safeguarding Authority will consider the case and decide whether the person should be barred. Employers and others providing 'regulated activities' will be required to check a person's status before allowing anyone to start work in regulated activity and will commit a criminal offence if they fail to check. It will also be a criminal offence for a barred person to undertake any regulated activity. Parents who privately employ tutors or nannies, and people who directly employ carers, will be able to check the person's status in the scheme.

Once a person is a member of the scheme his/her status will be reviewed automatically if any relevant new information comes to light. For example if the person is convicted of a criminal offence or if new information is reported by an employer.

Employers will also be required to check the status of people applying to undertake work in what the Act defines as 'controlled activities', but people who are barred will be allowed to work in a 'controlled activity' provided that appropriate safeguards to be defined by guidance and regulations are put in place.

## Sexual Offences Act 2003

Amongst other things, this Act created a range of sexual criminal offences involving the abuse of a position of trust by a person aged over 18 in respect of a person aged under 18. The Act defines:

- the sexual criminal offences;
- a position of trust. This includes, for example, anyone over 18:
  - (a) who is looking after a young person receiving education at an educational institution (and is not themselves receiving education at that institution); or
  - (b) who is engaged in the provision of services under Sections 8 to 10 of the Employment and Training Act 1973 or Section 114 of the Learning and Skills Act 2000 who, in that capacity, looks after a young person on an individual basis;

- education at an educational institution. A person is receiving education at an educational institution if he/she is registered or enrolled as a pupil or student at the institution or receives education there under arrangements with another educational institution at which he is registered or enrolled; and
- looking after persons aged under 18. A person looks after persons under 18 if he/she is regularly involved in caring for, training, supervising or being in sole charge of such persons.

## Duty of Care

In some circumstances, the relationship between an HEI and a young person in its premises or in its care will give rise to legal obligations owed by the HEI to the young person. Whether those obligations arise, and what they entail, will depend on the circumstances of the case, including, for example, the reason for the young person's presence at the HEI and the activities they are engaged in whilst there. If those obligations are breached by the HEI and the young person suffers damage as a result, the HEI may be liable in negligence to compensate the young person. HEIs may wish to take legal advice on their duties in this area, in the context of different types of contact young people may have with the HEI.

## Guidance and Information

### Safeguarding Children and Safer Recruitment in Education

This is a publication which sets out the responsibilities of all local authorities, schools and further education colleges in England to safeguard and promote the welfare of children and young people. The guidance is underpinned by two sets of regulations – one each for schools and FE – that came into effect in 2007. It sets out recruitment best practice for the school, local authority and further education sectors. It can be downloaded from

[www.everychildmatters.gov.uk/\\_files/AD6343FE3EF01D9FC86617FE11940A48.pdf](http://www.everychildmatters.gov.uk/_files/AD6343FE3EF01D9FC86617FE11940A48.pdf)

### Working Together to Safeguard Children

Working Together to Safeguard Children sets out how individuals and organisations should work together to safeguard and promote the welfare of children. The guidance is addressed to all practitioners and front-line managers who have particular responsibilities for safeguarding and promoting the welfare of children, and to senior and operational managers in organisations that are responsible for commissioning or providing services to children, young people, parents and carers.

It is also addressed to senior and operational managers in organisations that have a particular responsibility for safeguarding and promoting the welfare of children. However, it is not necessary for all practitioners to read every part of the guidance – the table on pages 19-20 of Working Together to Safeguard Children sets out which parts of the document are particularly relevant to different roles. HEIs will particularly want to be aware of chapter 5, *Managing Individual Cases*.

Working Together to Safeguard Children is available at

[www.everychildmatters.gov.uk/\\_files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf](http://www.everychildmatters.gov.uk/_files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf)

# Appendix 2: Potential List of Duties for Designated Officers

*Aimhigher...Aimsafer* suggests three distinctive roles. Firstly, it suggests a 'Lead Designated Safeguarding Officer' with a strategic role in the HEI. Secondly, it suggests a network of Principal Designated Safeguarding Officers with operational responsibility. These would cover different areas of the HEI. Thirdly, Support officers, who would have mainly administrative functions.

Obviously the suitability of this model depends very largely on the size of the HEI and the scale and nature of its contact with children and young people. So too does the decision on whether dedicated members of staff are required, or whether these duties can be successfully amalgamated with others in one post.

## Lead Designated Safeguarding Officer – Strategic:

A senior member of the HEI's management structure should take the lead responsibility for co-ordinating the whole HEI safeguarding practice. Recommended areas of responsibility are:

- To be accountable for the HEI's safeguarding practice;
- Ensuring that safeguarding is afforded utmost priority at the most senior level within the HEI;
- Ensuring there is a staff structure and committee structure in place to fulfil safeguarding responsibilities;
- Liaising with the Human Resources Department about safe recruitment procedures, CRB Disclosures, induction of new staff and training;
- Ensuring that funding and human resources are available to fulfil safeguarding responsibilities;
- Ensuring procedures are in place for managing allegations against staff, Child in Need of Protection, whistleblowing and safe recruitment practices. This should include any press strategy;
- Ensuring that secure records of Child in Need of Protection concerns are stored and shared appropriately;
- To develop HEI-wide procedures, practice and guidance for safeguarding, taking into account any Local Safeguarding Children Board guidance;
- To create links with the local Social Services department children's service teams;
- To create a network of Principal Designated Safeguarding Officers;
- Ensuring that monitoring review systems are in place to incorporate new guidance and legislation and to test out existing systems;

- Ensuring that the HEI has procedures for dealing with allegations of abuse against members of staff and volunteers;
- Referring any suspected cases of abuse to the relevant investigating agency;
- Providing advice and support to other staff and working with other agencies such as the local authority and Local Safeguarding Children Board;
- Overall responsibility for liaising with schools and colleges;
- Ensuring that all staff undertake training appropriate to their roles;
- Remedying without delay any deficiencies or weaknesses with regard to safeguarding children that are brought to their attention;
- Reviewing existing policies and procedures;
- Ensuring procedures are in place for managing allegations against staff, whistleblowing and safe recruitment practices; and
- helping to develop any press strategy and responses to press enquiries.

To this list might be added the following:

- Ensuring that legislation and any other requirements are understood and acted upon; and
- Ensuring that the HEI has a safeguarding children policy and procedures in place.

## Principal Designated Safeguarding Officer

Each Faculty and/or Department and/or work area may need its own lead member of staff to take responsibility for implementation of the HEI's overall policy framework in ways which meet the individual Faculty's or Department's circumstances. The following responsibilities have been suggested:

### Referrals

- Refer cases of suspected abuse or allegations to the relevant investigating agencies;
- Act as a source of support, advice and expertise within the Faculty/Department/work area when deciding to make a referral by liaising with the relevant agencies; and
- Liaise with lead Designated Safeguarding Officer to inform him/her of any issues and on-going investigations and ensure there is always cover for this role.

### Training

- They should be trained to identify signs of abuse and when it is appropriate to make a referral;
- Be able to implement the HEI's policy on Children in Need of Protection; and
- Obtain access to resources and attend any relevant or refresher training courses.

## Raising Awareness

- liaising with the Department for any List 99 and PoCA list checks (for example, pending arrival of CRB Disclosure);
- organising training for staff;
- acting as a source of support, advice and help to other staff;
- day-to-day links with external agencies, parents, schools and colleges;
- keeping detailed, accurate and secure written records of referrals/concerns and incidents; and
- reporting cases to the Secretary of State for Children, Schools and Families if a person ceases to work in an educational setting and there are grounds for believing she or he may be unsuitable to work with children, or may have committed misconduct.

# Appendix 3: De Montfort University Child Protection Policy and Procedures

## 1. De Montfort University Statement on Child Protection

Child protection and the welfare of all children is very important to us. We aim to provide a safe environment for children to visit and participate in activities.

De Montfort University believes that all children should be:

- listened to and heard;
- valued and treated as individuals;
- respected for their individuality and identity;
- encouraged and praised; and
- involved in decisions, whenever it is appropriate.

## 2. Scope

This policy and procedure applies to all employees and students of De Montfort University.

## 3. Principles

- 3.1 A child is a young person under the age of 18.
- 3.2 Children, whatever their age, gender, disability, racial origin, religion, religious belief and sexual orientation have the right to protection from abuse and a right to be safe in the activities that they, or their parents and carers, choose.
- 3.3 Abuse can take different forms and includes physical abuse, sexual abuse, emotional abuse as well as neglect and bullying. Abuse can have serious and long term effects in terms of development, health and well being including to self esteem and self image.
- 3.4 All suspicions and allegations of abuse or inappropriate behaviour will be taken seriously by De Montfort University and responded to appropriately.

## **4. Reducing Risk: Increasing Safety**

De Montfort University has a number of Designated Child Protection Officers and Deputies in respect of its work with schools and colleges. These Officers and Deputies undertake child protection training on an ongoing basis.

- 4.1 The University's recruitment and selection process is very thorough and includes Criminal Records Bureau checks for certain positions where there is direct work with children.
- 4.2 All De Montfort University students who are employed to work with children on activities are required to give a voluntary disclosure whilst awaiting Criminal Records Bureau checks. It is noted that students employed by the University are employees of De Montfort University.
- 4.3 All De Montfort University employees are required to show exemplary behaviour when working with children.

## **5. External organisations working with children using De Montfort University facilities.**

- 5.1 De Montfort University has a duty of care to all visitors.
- 5.2 All organisations who visit De Montfort University are required to produce to De Montfort University a declaration stating that their staff have the appropriate checks to permit them to work with children as well as having their own child protection policy, procedures and officer.
- 5.3 If the organisation does not have a child protection policy it will not be permitted to use De Montfort University's facilities.

## **6. Code of Behaviour and Good Practice**

This statement reflects the child centred principles of De Montfort University.

### **6.1 De Montfort University believes that:**

- 6.1.1 All children, young people, students, staff and visitors should be treated with respect;
- 6.1.2 All activities with children and young people should have more than one adult present or at least that one is within sight or hearing of others;
- 6.1.3 All activities respect a young person's right to personal privacy;
- 6.1.4 In all activities, De Montfort University employees are required to be aware that physical contact with a child or young person may be misinterpreted;
- 6.1.5 In all activities, De Montfort University employees should recognise that special caution is required in moments when discussing sensitive issues with children or young people;

- 6.1.6 Any physical or manual touching is required to be provided openly and if this is in a sporting situation, it should be in accordance with the guidelines provided by the appropriate National Governing Body;
- 6.1.7 In activities, feedback should be constructive rather than negative;
- 6.1.8 In all activities, De Montfort University employees are required to challenge unacceptable behaviour; and
- 6.1.9 Any allegations or suspicions of abuse should be reported immediately to a Designated Child Protection Officer (or Deputy).

## **6.2 In all dealings with children, De Montfort University employees should never:**

- 6.2.1 Play rough physical games or sexually provocative games;
- 6.2.2 Share a room with a child;
- 6.2.3 Enter a child's room unless it is absolutely necessary and if entering a child's room must do so accompanied;
- 6.2.4 Allow or engage in any form of inappropriate touching;
- 6.2.5 Allow children to use inappropriate language without challenging it;
- 6.2.6 Make sexually suggestive comments even in jest;
- 6.2.7 Reduce a child to tears as a form of control;
- 6.2.8 Allow allegations made by a child to go unchallenged, unrecorded or not acted upon; and/or
- 6.2.9 Do personal things for a child which they can do for themselves. If a child has a disability any tasks should only be performed with the full understanding and consent of the parents/carers.

## **6.3 Examples of What Should be Reported/Recorded**

Any incidents which cause concern in respect of a child are required to be reported immediately to the Designated Child Protection Officer (or Deputy). Below are examples of incidents which are required to be reported.

When:

- 6.3.1 a child is accidentally hurt;
- 6.3.2 there is a concern that a relationship is developing which may be an abuse of trust;
- 6.3.3. you are worried that a child is becoming attracted to you;

- 6.3.4 you are worried that a child is becoming attracted to a colleague who cares for them;
- 6.3.5 you think a child has misunderstood or misinterprets something you have done;
- 6.3.6 you have been required to physically restrain a child to prevent them from harming themselves or another or from causing significant damage to property;
- 6.3.7 you receive a report from a child alleging abuse regarding a member of an external organisation using De Montfort University's facilities;
- 6.3.8 you see any suspicious marks on a child; and/or
- 6.3.9 you hear of any allegations made by a child of events outside De Montfort University.

## **7. Recognition of Abuse**

De Montfort University's employees may not be familiar with working with children and may not be in a position to recognise abuse. If you are not familiar with working with children you can receive some basic knowledge by undertaking training provided by DMU. This will allow you to be aware of the various types of abuse and also identify the different cultural contexts of behaviour.

It is not the place of De Montfort University employees or students to make a judgement about whether abuse has occurred. This is the remit of Social Services.

- 7.1 Child abuse can occur within any setting and abusers may seek to use community and voluntary organisations to gain access to children.
- 7.2 There may be some indicative signs of abuse which include:
  - 7.2.1 unexplained or suspicious injuries, particularly if such an injury is unlikely to have occurred accidentally;
  - 7.2.2 an injury for which there may be an inconsistent explanation either from an adult or child;
  - 7.2.3 the child describes an abusive act or situation;
  - 7.2.4 unexplained changes in behaviour;
  - 7.2.5 inappropriate sexually explicit behaviour or sexual awareness
  - 7.2.6 a distrust of adults; and/or
  - 7.2.7 the child is not allowed to be involved in normal social activities;

## 8. Procedures

### 8.1 Reporting

If a child says something or acts in a way that abuse is suspected the person receiving the information is required to:

- 8.1.1 react in a calm and considered way but should show concern
- 8.1.2 tell the child that it is right for them to share this information and that they are not responsible for what has happened;
- 8.1.3 take what the child has said seriously;
- 8.1.4 only ask questions to ascertain whether there is a concern but not interrogate the child;
- 8.1.5 listen to the child and not to interrupt if the child is recounting significant events;
- 8.1.6 offer reassurance that the problem can be dealt with;
- 8.1.7 not give assurances of confidentiality but explain you will need to pass on this information to those that need to know;
- 8.1.8 make a comprehensive record of what is said and done as soon as possible and before leaving work. Keep all original notes as they may be needed as evidence.

The comprehensive record should include the following:

- a verbatim record of the child's account of what occurred in their own words. You should note this record may be used later in a criminal trial and therefore needs to be as accurate as possible;
  - details of the nature of the allegation or concern;
  - a description of any injury. Please note that you must not remove a child's clothing to inspect any injuries; and
  - dates, times or places and any other information that may be useful.
- 8.1.9 The incident, allegation or concern should be reported immediately to the DMU Designated Child Protection Officers and Deputies for appropriate action to be taken. If the concerns relate to the Designated Child Protection Officer or Deputies for De Montfort University then a concern must be referred directly to the Police or Social Services.
  - 8.1.10 It is the remit of Social Services (and/or the Police) and not anyone connected with De Montfort University to investigate allegations or suspicions of abuse as detailed in Section 47 of the Children Act 1989.

## **8.2 Procedures for dealing with allegations or suspicion of abuse against an employee of De Montfort University at work**

- 8.2.1 The Designated Child Protection Officer or Deputy who receives a report of an allegation should immediately inform the head of department of the employee accused and the HR Adviser of the allegation and explain the action that needs to be taken. (In the absence of the head of department, or if s/he is the subject of the complaint, the Dean/Director should be notified, or the Pro Vice Chancellor if the Dean/Director is linked to the case).
- 8.2.2 The head of department should meet with the employee accused to inform her/him that an allegation has been made and also explain the course of action that needs to be taken. It should be made clear to the employee that this meeting is not an investigatory meeting or disciplinary hearing.
- 8.2.3 The Designated Child Protection Officer or Deputy should consult the contact person in Social Services as part of the initial consideration to establish whether the allegation warrants further investigation.
- 8.2.4 Possible outcome of 8.2.3 may include the following:
- (a) that there should be an immediate referral to child protection agencies to deal with the matter. (The Designated Child Protection Officer or Deputy will be responsible for liaising with Social Services and other relevant agencies).
  - (b) there is reason to suppose abuse may have occurred and that further investigation by a child protection agency or under DMU Disciplinary Procedure for staff may be necessary.
  - (c) the allegation was prompted by inappropriate behaviour by the employee which needs to be considered under DMU Disciplinary Procedure for staff.
  - (d) that the allegation is without foundation and does not warrant further investigation.
- 8.2.5 Where allegations of abuse call for immediate referral to child protection agencies [as in 8.2.4 (a)]
- subsequent action taken will be in accordance with the procedures established by the Local Safeguarding Children's Board (LSCB) – a statutory committee.
  - the Designated Child Protection Officer or Deputy will not be part of the investigating team but s/he will be expected to contribute to discussions on how the investigation will be conducted.
  - the Designated Child Protection Officer or Deputy will constantly liaise with the agencies to obtain information on the progress of the investigation and update the HR Adviser.
- 8.2.6.1 The University will be able to conduct an internal investigation. However, investigation by the police or child protection agencies will take priority. Internal DMU investigation will commence after the child protection agencies have completed their investigation. The University will keep the investigation of all complaints and the records relating to the matter confidential.

- 8.2.6.2 The employee accused will have the right to seek advice and/or be accompanied by their trade union representative or friend who is a DMU employee when s/he is being interviewed.
- 8.2.7 Where the allegation is so serious and there is potential threat to the employee and/or the reputation of the University, the HR Director will make an immediate recommendation for suspension to the Vice-Chancellor (or nominated Pro Vice-Chancellor).
- 8.2.8 The Vice-Chancellor or nominated Pro Vice-Chancellor will confirm the action to be taken in writing to the employee's line manager, with copy to the Deputy Director of HR who will arrange for other necessary action to be taken in accordance with the Disciplinary Procedure for staff.
- 8.2.9 The HR Adviser will provide the employee with information on the progress of the case, throughout the process.
- 8.2.10 The employee will be entitled to counselling and appropriate support throughout the process.
- 8.2.11 The outcome of any investigation and any related disciplinary proceedings will be communicated in writing to the employee in accordance with the Disciplinary Procedure for staff.

### **8.3 Procedures for dealing with concerns of possible abuse outside of De Montfort University.**

- 8.3.1 If you are concerned about an incident which has occurred outside of De Montfort University you are required to raise the matter with the Designated Child Protection Officers or Deputies who will inform the appropriate service and ensure that appropriate procedures are followed.

### **8.4 Procedures for dealing with an allegation of abuse by an individual of an external organisation using De Montfort University facilities**

- 8.4.1 If a child alleges abuse by an employee from an external organisation, a referral must be made to the Designated Child Protection Officers or Deputies. Follow the procedures as set out in paragraph 7.
- 8.4.1.1 The Designated Child Protection Officers or Deputies will consider in consultation with the Director of Corporate Affairs whether the external organisation will be permitted to continue using De Montfort University's premises or facilities.

## **9 Record keeping**

- 9.1 All documents relating to the allegation will be returned to the HR Adviser to be kept in the employee's personal file when the case has been concluded. If the allegation was found to be malicious or without foundation, no record will be kept in the employee's file except when the employee requests this.

## **10 Monitoring and evaluation**

- 10.1 The Designated Child Protection Officers or Deputies will record any incidents relating to child protection and report them in an anonymised form to the Director of Human Resources on a yearly basis. This will be confidential and if any concerns or patterns emerge these will be dealt with appropriately.

## **11 Review of Policy and Procedure**

- 11.1 The policy and procedure will be reviewed annually by Educational Partnerships in consultation with expertise within De Montfort University to ensure that it continues to meet the University's best practice and legislative obligations.

# Appendix 4: Possible List of Headings for Code of Conduct

The following list of headings are those suggested by the National Network of Investigation and Referral Support Co-ordinators in their document *Guidance for Safe Working Practice for the Protection of Children and Staff in Education Settings 2006*:

- I. Definitions
- II. Overview
- III. Underpinning Principles
  - Introduction
  - Status of Document
  - Duty of Care
  - Exercise of Professional Judgement
  - Power and Relationships
  - Confidentiality
  - Propriety and Behaviour
  - Dress and Appearance
  - Gifts, Rewards and Selection of Students
  - Infatuations
  - Social Contact
  - Communications with Students using Technology
  - Physical Contact
  - Children in Distress
  - Physical Education and other activities which require physical contact
  - Behaviour Management
  - Care, Control and Physical Intervention
  - Sexual Contact
  - One to One Situations
  - Home Visits

- Overnight Supervision and Examinations
- Transporting Children and Young People
- Educational Visits and After School Clubs
- First Aid and Administration of Medication
- Intimate Care
- Curriculum (Courses involving Contact with under 18s)
- Photography, Videos and other Creative Arts
- Inappropriate Images
- Accommodation
- Whistle blowing
- Sharing concerns and Recording Incidents

This list is not comprehensive.

# Appendix 5: Six Key Points to Remember on Information Sharing in Respect of Children and Young People

- You should explain to children, young people and families at the outset, openly and honestly, what and how information will, or could be shared and why, and seek their agreement. The exception to this is where to do so would put that child, young person or others at increased risk of significant harm or an adult at risk of serious harm, or if it would undermine the prevention, detection or prosecution of a serious crime including where seeking consent might lead to interference with any potential investigation.
- You must always consider the safety and welfare of a child or young person when making decisions on whether to share information about them. Where there is concern that the child may be suffering or is at risk of suffering significant harm, the child's safety and welfare must be the overriding consideration.
- You should, where possible, respect the wishes of children, young people or families who do not consent to share confidential information. You may still share information if, in your judgement on the facts of the case, there is sufficient need to override that lack of consent.
- You should seek advice where you are in doubt, especially where your doubt relates to a concern about possible significant harm to a child or serious harm to others.
- You should ensure that the information you share is accurate and up-to-date, necessary for the purpose for which you are sharing it, shared only with those people who need to see it, and shared securely.
- You should always record the reasons for your decision – whether it is to share information or not.

# Appendix 6: Code of Behaviour for External Organisations

- Do** Treat everyone with respect
- Do** Provide an example you wish others to follow
- Do** Plan activities so that they involve more than one person or at least are in sight or hearing of others.
- Do** Respect a young person's right to personal privacy
- Do** Provide access for young people and adults to feel comfortable enough to point out attitudes or behaviours that they do not like, and try to provide a caring atmosphere
- Do** Remember that someone else might misinterpret your actions, no matter how well intentioned
- Do** Act as an appropriate role model
- Do Not** Permit abusive youth/peer activities (e.g. bullying, ridiculing)
- Do Not** Play physical contact games, make inappropriate comments, or have inappropriate verbal banter with young people
- Do Not** Jump to conclusions without checking facts
- Do Not** Make suggestive remarks/gestures or tell sexist/homophobic/racist 'jokes'
- Do Not** Rely on your good name to protect you. It may not be enough.
- Do Not** Believe it could not happen to you. It could.

## **Please delete as appropriate**

- I have obtained a police clearance certificate which I have shown to the designated member of staff
- I am willing to be checked against police and other records
- I have not incurred any criminal convictions related to, nor have I committed any offences of abuse or causing harm to children and young people, or any other offence which may be relevant to the work I undertake for Aimhigher Greater Merseyside
- I am not aware of any other investigations which may have been held, or may currently be in progress, concerning my behaviour towards others.

**I have read and understood this document and agree to adhere to Aimhigher Greater Merseyside Child Protection Policy and follow the Code of Behaviour.**

Name:.....

Organisation:.....

Position held: .....

Signed:.....

Date: .....

# Appendix 7: Glossary

## **CRB**

The Criminal Records Bureau aims to help employers and voluntary organisations make safer recruitment decisions by identifying candidates who may be unsuitable for certain work, especially work which involves children or vulnerable adults. It does this through a Disclosure service.

## **Children and young people**

Throughout this document references are made to 'child/children' and 'young person/people'. These terms are used interchangeably and refer to people under the age of 18 years.

## **Designated Safeguarding Officer**

Designated Safeguarding Officer is a term often used for individuals with specific responsibilities for managing an HEI's safeguarding policy. Individual HEIs may use different titles.

## **Independent Safeguarding Authority Scheme**

The Independent Safeguarding Authority Scheme is a forthcoming new vetting service for people working with children and vulnerable adults. Individuals who wish to work in either 'regulated' or 'controlled' activity will be required to have applied to become members of the scheme.

## **List 99**

List 99 is a confidential document, maintained by the Department for Children, Schools and Families (DCSF), which contains the names (including any known previous names or aliases), dates of birth, national insurance numbers and, where applicable, teacher reference numbers of people who are subject to a direction made by the Secretary of State under Section 142 of the Education Act 2002, barring or restricting them from providing education or carrying out work (including voluntary work) that involves regular contact with children under the age of 18 in or for a school, a local education authority, or a further education institution. List 99 will be replaced by a new barring list (the children's barred list) as a result of the Safeguarding Vulnerable Groups Act 2006.

## **Local Safeguarding Children Boards (LSCB)**

LSCBs are established by local authorities. They were made mandatory by the Children Act 2004 and replaced Area Child Protection Committees (ACPCs) in 2006. The LSCB is the key statutory mechanism for agreeing how the relevant organisations in each local area will cooperate to safeguard and promote the welfare of children locally, and for ensuring the effectiveness of what they do.

## PoCA list

The PoCA (Protection of Children Act 1999) list is a confidential document maintained by DCSF, which contains the names (including any known previous names or aliases), dates of birth, national insurance numbers of people who the Secretary of State considers are unsuitable to work in a 'regulated' position as defined by Section 36 of the Criminal Justice and Court Service Act 2000. Any person included in the PoCA list is also included in list 99 and cannot work in the education sector. The PoCA List will be replaced by the children's barred list as a result of the Safeguarding Vulnerable Groups Act 2006.

## Regulated position

'Regulated positions', as defined in the Criminal Justice and Court Services Act 2000, are those where the 'normal duties' of the post:

- include work in an institution exclusively or mainly for the education of children, such as a school.
- involve caring for, training, supervising or being in sole charge of children.
- involve unsupervised contact with children under arrangements made by a 'responsible person', including parent, guardian, adult with whom the child lives or teacher.
- include supervising or managing an individual in his work in a 'regulated position'.

## Regulated and Controlled activity

'Regulated activity' and 'Controlled activity' are defined in the Safeguarding Vulnerable Groups Act 2006 and will form the basis of the Independent Safeguarding Authority Scheme. Regulated activity includes, among other things, teaching, training, caring for, supervising and advising children and/or vulnerable adults, where the activity takes place frequently or on three or more days in a 30-day period. This will include a range of activities in many HE institutions. Controlled activity includes ancillary support work in general health, NHS, adult social care and FE settings and some positions that allow access to records. 'Activity' means any form of work, paid or unpaid.

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