

Commentary on the Regulatory Requirements

September 2018



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ISI periodically issues further information about regulatory matters which are available through the ISI online portal. Significant points are then consolidated into the next revision of this Commentary.

Paragraphs in which changes have been made to the previous version of the Commentary are highlighted by a vertical line in the left-hand margin and in the table of substantive changes which can be found at the end of this document. Substantive changes to the EYFS Framework are summarised in a table on p150.

INTRODUCTION

The purpose of this Commentary

1. All independent schools ('schools') are required by law to be registered with the Department for Education (DfE). The DfE sets minimum standards which schools must meet for initial and continuing registration. The schools are independent, both of the government and, usually, of each other. They are free in the exercise of their independence to carry on the distinctive traditions of their heritage and develop in unique ground-breaking ways, provided that their arrangements meet the minimum standards which are there to ensure children stay safe and receive a good education. Failure to meet these minimum requirements could ultimately lead to de-registration of a school by and at the discretion of the Secretary of State.
2. This Commentary provides inspectors with a guide to the DfE's various legal requirements that are subject to inspection by the Independent Schools Inspectorate. **The Commentary does not impose additional requirements but explains the standards to support consistency across inspections.** For transparency, it is available to all schools inspected by ISI to assist them in their understanding of inspection matters but it is primarily an inspection instrument. Schools are responsible for ensuring they meet the standards, reading the underlying guidance and advice documents linked from the text in full for a rounded understanding. While every effort is made to keep this Commentary up to date, in conjunction with supplementary information disseminated to inspectors and schools from time to time, ISI accepts no responsibility for any loss or damage of any variety to schools and others due to their misunderstanding the contents of this Commentary, or to their reliance on background information intended for inspectors.
3. Inspections of regulatory compliance report whether schools are meeting the minimum standards. This reflects the statutory purpose of inspection, under section 109 of the Education and Skills Act 2008, which is to 'report ... on the extent to which any relevant standard is being met ...'. Reporting against each standard is in terms of 'met' or 'not met'. It is, therefore, essential that inspections are underpinned by a common understanding amongst inspectors of the standards and their purpose, where flexibility is given to meet a range of situations and where the government allows schools latitude to exercise discretion in recognition of their independence. The Commentary has been revised for September 2018. Where regulations specify that a written document is necessary, guidance is given about required or indicative content and how inspectors will check effective implementation.
4. The Secretary of State for Education requires all independent schools to be inspected against:
 - the Independent School Standards (the standards). These are contained in the schedule to the [Education \(Independent School Standards\) Regulations 2014](#) (ISSR), made under section 94 of the Education and Skills Act 2008;
 - the [National Minimum Standards for Boarding Schools](#) (NMS), made under section 87 of the Children Act 1989;
 - the [Statutory Framework for the Early Years Foundation Stage](#) (EYFS), made under the Childcare Act 2006,
 - the requirement for disability access plans (Schedule 10 of the Equality Act 2010);
 - the ban on corporal punishment.
5. Schools are subject to further legislation and regulation as charities, employers, property owners, data controllers and businesses. These are not matters for inspection by ISI save to the extent that they are incorporated into the standards. Examples would be the *Prevent* strategy and health and safety legislation, which ISI inspections touch upon because of their inclusion in the standards but in the context of non-specialist review.

How to use this Commentary

6. The sections of the Commentary are written in the order they appear in the schedule to the ISSR, followed by separate sections about the EYFS and NMS. At the end there is a glossary. Within the document there are hyperlinks to the glossary. When the document is printed, these links will appear as blue underlined text. To return to the main text from the glossary, you can use the Windows keyboard shortcut **ALT** + **LEFT ARROW** or Mac shortcut CTRL-ALT-CMD-SPACE BAR.
7. The wording of the regulation/legislation is presented in a **purple box**. This will be followed by explanatory ISI notes about the requirements, any specific requirements for written policies shown in a box with a **dotted border**, and other useful information. Implementation sections are included to indicate to inspectors areas they are likely to want to check. At the end of each section, there are links for additional EYFS and boarding requirements on the topic in question.

When do the Independent School Standards apply?

8. As a general principle, the ISSR should be assumed to apply to all provision made by independent schools for their pupils, and, in the case of boarding, for other children whom they accommodate (see the chapter on boarding for more detail). This is usually clearly recognisable but more complex situations, such as holiday provision, can cause confusion. These situations are usually analysed most readily by considering by and for whom provision is organised. In case of doubt, inspectors should seek advice from the duty team or ISI head office.
9. If provision is organised by a school for its own registered pupils, it should be considered extra-curricular activity and the ISSR would apply in the usual way. A school trip in term time would, therefore, be covered by the ISSR.
10. If provision is organised by a school for a wider group of children, then it may not be part of the school's educational provision. It may, for example, be an additional commercial activity by the business. As such, the usual safeguarding rules for any provision for children would apply (for example, relevant guidance found in 'Working Together to Safeguard Children', or legislation of general application, such as the Safeguarding Vulnerable Groups Act 2006), but the ISSR may not.
11. Provision arranged by another organisation that has, for example, rented the school premises, is the responsibility of the other organisation if it makes the provision on its own account. (However, a school might be expected to do some due diligence to manage the risk of reputational damage which could arise as a result of events on its premises). The ISSR would not apply.

Policies and particulars

12. Some standards require the preparation of a policy or particulars. The term 'policies' is used throughout the Commentary as it is the form of 'particulars' most commonly prepared by schools. The standards are not specific as to format and it is possible that the necessary information could be contained in booklets, letters or similar. For the purposes of inspection, schools are asked to provide the information in a clearly organised form for inspectors. It is for schools to demonstrate compliance, as part of their duty to cooperate with inspectors.
13. The document *Documentation required for inspection* sets out the items which a school is asked to provide routinely and before an inspection is announced, via the ISI portal or by hosting the documents on their website. The documents should be clearly labelled as separate files rather than embedded in other documentation. A school's documentation should be more than 'off-the-shelf' guidance, and be representative of the school's individual circumstances and actual practices.

Inspection of the regulatory requirements

14. Reporting inspectors have overall responsibility for recording and reporting whether the standards and other relevant requirements are met. They carry out the checks themselves, starting with the pre-inspection documentation, and continue during the inspection, drawing on evidence from their

accompanying inspector(s). They may delegate the gathering of some of the evidence to team members, but they must retain a clear overview of their own. It is the responsibility of the reporting inspector to complete the final version of the regulatory checklist for submission to ISI.

15. Inspectors should refer to the *Framework* and appropriate guidance for inspection approach. During the oral feedback, the reporting inspector ensures that, if a regulation is not met, the school is clearly informed about the nature of the failing and the outcome necessary to remedy the deficiency, though the process is a matter for the school.
16. As regulator of schools, the DfE is not bound by the compliance judgments of inspectors although it routinely accepts them. It is for the DfE, as regulator, to determine whether regulatory action should be taken when a school is found not to meet the standards. The DfE also has the power to direct Ofsted to inspect any school at any time, including those for which ISI is the approved inspectorate. A [memorandum of understanding](#) between DfE and Ofsted explains how they work together.

Inspecting the exercise of professional discretion

17. In some areas, the DfE intentionally allows professionals working in schools scope to exercise professional discretion. In such areas, the role of inspectors is to consider whether the school acted reasonably in reaching a decision or choosing its course of action. More than one decision or course may be considered reasonable. A decision or action is not reasonable if it lies outside the range that could be considered reasonable in the context of that school.

The role of 'materiality' in compliance judgements

18. In reporting whether a school meets the required minimum standards, a reasonable and proportionate approach is to be taken bearing in mind whether the purpose (policy intention) of each standard has been achieved in all material respects. To this end, reporting inspectors should consider the nature and extent of any areas of weakness in compliance and the effect or potential effect on pupils. For example, a single significant material deficiency may call for a judgement of 'not met' while a small, correctable error in an otherwise effective system may not. However, a number of small deficiencies could be indicative of poor systems and/or a lax approach to compliance and could be judged in context to indicate that one or more standards have not been met. Schools should be alerted to all non-compliance, whether or not reported as material at the time, so that they may take action to remedy them and improve. If a school is able to correct issues during the inspection, it will be for the inspection team to judge whether the matter has been fully resolved, including implementation, or if an underlying systemic issue may still remain and should be reported.
19. In reaching judgements about compliance with the standards, inspectors should recognise that schools will seek to meet the standards by means which are compatible with their other legal obligations, according priority to safeguarding as appropriate. But inspectors may not take into account extraneous considerations such as potential implications for a school in its capacity as a Tier 4 sponsor as a result of decisions by other agencies.
20. On the rare occasions where evidence affecting regulatory judgements is unclear, for example, because of late emerging issues, then RIs must make sure the school is provided with a clear judgement of the 'worst-case' outcome along with any implications for associated judgements, such as those for leadership and management, so that the school is left in no doubt of the possible implications. The RI must contact the duty team via the ISI Office as soon as possible for further advice and guidance. It should be made clear that confirmation of final decisions will be conveyed to the school once all relevant information has been considered through the quality assurance process.
21. Material non-compliance is reported against the relevant standard, or in the dedicated early years part of the report for registered early years settings. Particular care is needed when dealing with a deficiency which has implications for more than one section (for example, welfare, health and safety and suitable persons). The wording of the report and the 'Action points' must make clear if more than one regulatory

deficiency stems from the same cause, so as to avoid suggesting more failings than is the case. Reporting inspectors and editors must make sure that every part of the written report is fully consistent with the judgements recorded in the *Record of Evidence*.

Advice to schools

22. Inspectors may discuss current thinking on best practice if time allows, but if they do so they must distinguish this unmistakably from regulatory requirements and be clear that inspections of regulatory compliance report only against the regulatory standards and other requirements listed above, not 'best practice' and not other legal requirements.
23. For support on regulatory matters which ISI does not inspect, inspectors may direct schools to other sources of advice:
 - [ISC](#) and its member associations for professional support
 - [ACAS](#) for advice relating to employment disputes
 - [The Charity Commission](#) for advice relating to duties as a charity
 - [The Information Commissioner's Office](#) for advice about GDPR (data protection) and document retention
 - [UK Visas and Immigration \(UKVI\)](#) for advice about Tier 4
 - [The Health and Safety Executive](#)
 - The Department for Education for registration enquiries and material changes:
registration.enquiries@education.gsi.gov.uk

THE INDEPENDENT SCHOOL STANDARDS REGULATIONS

Part 1 – Quality of education provided

Paragraph 2 – Curriculum

- (1) The standard in this paragraph is met if—
- (a) the proprietor ensures that a written policy on the curriculum, supported by appropriate plans and schemes of work, which provides for the matters specified in sub-paragraph (2) is drawn up and implemented effectively; and
 - (b) the written policy, plans and schemes of work—
 - (i) take into account the ages, aptitudes and needs of all pupils, including those pupils with an EHC plan; and
 - (ii) do not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.
- (2) For the purposes of paragraph (2)(1)(a), the matters are—
- (a) full-time supervised education for pupils of compulsory school age (construed in accordance with section 8 of the Education Act 1996), which gives pupils experience in linguistic, mathematical, scientific, technological, human and social, physical and aesthetic and creative education;
 - (b) that pupils acquire speaking, listening, literacy and numeracy skills;
 - (c) where the principal language of instruction is a language other than English, lessons in written and spoken English, except that this matter does not apply in respect of a school which provides education for pupils who are all temporarily resident in England and which follows the curriculum of another country;
 - (d) personal, social, health and economic education which—
 - (i) reflects the school’s aim and ethos; and
 - (ii) encourages respect for other people, paying particular regard to the protected characteristics set out in the 2010 Act(a);
 - (e) for pupils receiving secondary education, access to accurate, up-to-date careers guidance that—
 - (i) is presented in an impartial manner;
 - (ii) enables them to make informed choices about a broad range of career options; and
 - (iii) helps to encourage them to fulfil their potential;
 - (f) where the school has pupils below compulsory school age, a programme of activities which is appropriate to their educational needs in relation to personal, social, emotional and physical development and communication and language skills;
 - (g) where the school has pupils above compulsory school age, a programme of activities which is appropriate to their needs;
 - (h) that all pupils have the opportunity to learn and make progress; and

- (i) effective preparation of pupils for the opportunities, responsibilities and experiences of life in British society.

24. The school must set out its curriculum in writing in a manner which makes clear what it provides under each part of these regulations. Such documentation does not have to be elaborate, provided this condition is satisfied and it is clear that the aptitude and needs of all pupils within the school are catered for, including those with special educational needs, including those with a statement of special educational needs (SEN) or an education, health and care plan (EHC) plan. To satisfy each part of the regulation, the relevant aspect of the curriculum must be both written down and effectively implemented. Plans and schemes of work may be those devised by the school itself or from a relevant published source. Schools are not required to describe in their documentation how they avoid undermining fundamental British values, but inspectors should be alert to counter-indications both in the written documentation and in school.
25. There may be shortcomings in meeting any one aspect of the standard without a failure to meet the whole standard. To make a finding that a standard is not met, inspectors must judge that the provision for pupils or a group of pupils is not adequate or suitable in respect of the standard in question. It is not necessary for all the areas of learning to be represented in all years and, for compliance purposes, inspectors should not have expectations of curriculum breadth beyond those for maintained schools.
26. Indications that the school is undermining fundamental British values, contrary to the standard in paragraph 2(1)(b)(ii), could amount to a failure to meet the whole standard. Inspectors finding cause for concern should refer to the duty team via the ISI office for support.

CURRICULUM POLICY CONTENT

27. The school's curriculum policy must contain information about the school's provision in the areas detailed in (2)(a) – (i) in the box above, and fulfil the general requirements of (1)(a) and (b).

FURTHER GUIDANCE

Full-time education

28. The requirement to register as a school arises when an establishment provides 'full-time education' to five or more pupils of compulsory school age, or one with a statement of special educational needs, an EHC plan or one looked after child. There is no legal definition of 'full-time' but the DfE considers an establishment to be providing full-time education if it is providing education which is intended to provide all, or substantially all, of a child's education. It is unlikely that a school offering fewer than 18 hours per week will be able to meet the standards and be registered as an independent school. The DfE anticipates that schools offering teaching of around 20 hours per week or more will be providing full-time education.
29. Parents must ensure that their children receive full-time suitable education, though this does not have to be all from one school. Schools have discretion to agree to part-time or flexi-schooling, for example, where pupils are also receiving 'education otherwise' or are registered also at another school. In that situation, the parent(s) would be responsible for ensuring that the education is sufficient and at an appropriate level, and the local authority has a duty to monitor the arrangements. If a school has pupils registered as part-time, this should be mentioned in the report and considered also under the standard in paragraph 15 relating to the admissions and attendance registers.
30. Legal requirements for school hours do not apply in independent schools. Provided that schools are effective in implementing the regulations for the curriculum and teaching, the time they take to do it is irrelevant. If the school does not have an adequate curriculum or fails to implement it adequately, then inspectors may consider whether lack of time is a causal factor to take into account. In that case, it is

worth considering the non-statutory suggestions set out in the previous DfE information (circular 7/90), for a school year of 190 days (38 weeks):

- **age 5-7: 21 hours**
- **age 8-11: 23.5 hours**
- **age 12-16: 24 hours**

Supervised education

31. Normally, this requires a teacher or responsible adult to be available to support pupils as necessary. Older pupils may be left on their own (for example, in the library) if it is clear that a responsible adult can be readily contacted if necessary. See also the guidance under Part 3 below.

Areas of experience

32. The standards are not intended to be prescriptive about the way a school organises its curriculum, and they do not require the school to follow the National Curriculum. However, it is expected that the school will give experience in the following areas.

Linguistic: This area is concerned with developing pupils' communication skills and increasing their command of language through listening, speaking, reading and writing. In all schools, except for foreign national schools whose pupils are **all** temporarily resident in this country, there must be lessons in written and spoken English. Many schools will also teach other languages and some will use a language other than English as the main medium of instruction.

Mathematical: This area helps pupils to make calculations, to understand and appreciate relationships and patterns in number and space and to develop their capacity to think logically and express themselves clearly. Their knowledge and understanding of mathematics should be developed in a variety of ways, including practical activity, exploration and discussion.

Scientific: This area is concerned with increasing pupils' knowledge and understanding of nature, materials and forces and with developing the skills associated with science as a process of enquiry: for example, observing, forming hypotheses, conducting experiments and recording their findings.

Technological: There is no wish to be prescriptive about how schools develop a curriculum to teach technological skills and it is recognised that some schools would not wish to teach some of the aspects below; for example, information and communication technology (ICT). Technological skills can include the use of ICT; developing, planning and communicating ideas; working with tools, equipment, materials and components to produce good quality products; and evaluating processes and products.

Human and social: This area is concerned with people and their environment, and how human action, now and in the past, has influenced events and conditions. In most schools, the subjects of history and geography make a strong contribution to this area.

Physical: This area aims to develop the pupils' physical control and co-ordination as well as their tactical skills and imaginative responses and to help them to evaluate and improve their performance. Pupils should also acquire knowledge and understanding of the basic principles of fitness and health.

Aesthetic and creative: This area is concerned with the processes of making, composing and inventing. There are aesthetic and creative aspects of all subjects, but some make a particularly strong contribution, including art, music, dance, drama and the study of literature, because they call for personal, imaginative, and often practical responses.

33. There is no specific requirement to provide **religious education** although, in many schools, religious education is a major way of providing human and social education and promoting spiritual, moral, social and cultural development.

Special educational needs

34. The standard does not require schools to have a separate SEN policy but does require the curriculum, plan and schemes of work to take proper account of the needs of all pupils, in terms of ability, need and aptitudes. The school must be able to demonstrate that special educational needs are taken fully into account.
35. By way of background, national arrangements for Special Educational Needs transitioned between September 2014 and April 2018 to implement a new system based on the Children and Families Act 2014 and the [SEN and Disability Code of Practice, 0-25 years 2015](#) (*SEND Code 2015*). From 1 September 2014, there were no new statements of SEN and Education, Health and Care Plans (EHC plans) were rolled out instead. This process should now be complete although it is known that some LAs are still not entirely compliant. That is not an issue for ISI inspectors; for independent schools, much remains as before. The definition of SEN remains the same and schools can still request statutory assessment from LAs when this appears necessary.
36. Where an LA concludes that a child with a statement of special educational needs or EHC plan should be placed into an independent school and names the school in the EHC plan, the LA retains legal and financial responsibility for ensuring that the provision specified in the child's EHC plan is made. This will include paying the fees charged by the independent school. The day-to-day practical responsibility of making provision rests with the school. Inspectors should check that schools are playing their part in making the provision set out in the EHC plan.
37. If an LA is satisfied that the provision set out in an EHC plan can be made more economically in the state sector, it may decline to name an independent school in a EHC plan. This does not prevent parents from making their own arrangements to pay for a place at an independent school of their choice, so long as the LA is satisfied that the arrangements are suitable. Since September 2014, LAs have discretion to make payments to assist parents to make their chosen independent school suitable. This practice was previously common but not underpinned by law. Again, the role of inspection is to check that the age, aptitude and needs of each pupil are being properly provided for by the curriculum plans and schemes of work.
38. It is not necessary for a school to obtain the consent of the DfE to accept a pupil with an EHC plan. That rule was removed some years ago.
39. The EHC plans of all pupils in this category, whether placed by parents or the LA, must be reviewed annually and, if the school is named in the EHC plan, the provision specified in the EHC plan must be made (including the full National Curriculum, if this is specified). It is the responsibility of the LA, not the school, to review the EHC plan but it is good practice for the school to prompt the LA if necessary to ensure that the review takes place, and the school must co-operate with the LA in the review process (see [Part 6 – Provision of information](#)).
40. As a general principle, many of the requirements of the *SEND Code 2015* do not have direct application to independent schools other than the requirement to provide suitably for pupils with EHC plans. However, it is good practice for schools to (i) provide, for example, [individual education plans](#) (IEPs) or otherwise record the progress of and support for any pupils with significant learning difficulties or disabilities, and (ii) ensure that their admissions, discipline and other procedures (for example, arrangements for school trips or examinations) take account of pupils' needs. The *SEND Code 2015* also contains advice and guidance concerning Equality Act duties, which will be useful to independent schools.
41. As an exception to the general principle, above, independent early years providers that are funded by an LA and any independent specialist schools which choose to be approved under section 41 of the Children and Families Act 2014 (Section 41 schools) are obliged to have regard to the *SEND Code 2015*.

- **Funded early years providers:** providers need only have regard to the *SEND Code 2015* in relation to the funded provision. The main part of the school is not obliged to follow the Code. The relevant provisions of the Code largely replicate the requirements of the EYFS.
 - **Section 41 schools:** it is important to note that specialist SEN providers are not automatically section 41 schools; it is an approved status for which schools meeting prescribed criteria can apply. Very few schools within ISI's remit have opted for section 41 status. Inspectors will need to check the position when inspecting schools registered with a SEN specialism. The ISI office can assist.
42. It is not for ISI inspectors to report on any failure on the part of the local authority to comply with the requirements of the *SEND Code 2015*. However, the report should state if the school is failing to make adequate provision for groups of pupils (for example, those with dyslexia) or other specific needs, such as English as an additional language.
43. Inspectors should note that the phrase 'pupils with special educational needs' does not only refer to pupils who have an EHC plan.

Personal, social health and economic education

44. This need not be provided as a named subject, provided there is a written and effective plan implemented in a broad and appropriate way. From January 2015 the requirements also include economic education, and the regulations specifically require PSHE to encourage respect for other people, with particular regard to the [protected characteristics](#) under the Equality Act 2010.
45. The DfE has stated that the standard does not amount to a requirement to promote other faiths – in particular there is no requirement for a faith school to promote other faiths as well as its own. Likewise, there is no intention to discriminate against Christianity or undermine religious freedoms. The requirement does not extend schools' obligations under the Equality Act but is intended to strengthen existing requirements to promote respect and a culture of tolerance and diversity. It does not mean, for example, that schools must promote alternative lifestyles or same sex marriage. Rather, the standard requires schools to encourage pupils to respect other people, even if they choose to follow a lifestyle that one would not choose to follow oneself.

Careers education

46. The requirement relating to careers guidance applies to pupils receiving secondary education. It will, therefore, be relevant to pupils in Years 7 and 8, whether they are in a senior school or at a prep school, although in practice it will be especially important for pupils at Key Stage 4.
47. Careers guidance must be presented in an impartial way. This is defined as showing no bias or favouritism towards a particular education or work option.
48. The guidance must enable pupils to make informed choices about a broad range of options. This will include timely advice to help pupils choose GCSE and post-16 courses.
49. The guidance must help to encourage pupils to fulfil their potential. To this end, good careers education should enable pupils to 'know themselves' and how their strengths, weaknesses and interests relate to the world of work; learn about different careers and opportunities; obtain individual guidance; have some work experience; and gain information about training, education and occupations beyond school. Schools should consciously work to prevent all forms of stereotyping in the advice and guidance they provide to ensure that girls and boys from all backgrounds and diversity groups consider the widest possible range of careers, including those which are often portrayed as primarily for one or other of the sexes.
50. The statutory guidance for the state sector which gives a detailed explanation of parallel duties for state schools may be a useful resource for independent schools: [Careers guidance and access for education and training providers 2018](#).

Compulsory school age

51. This starts at the beginning of the term after that in which the child becomes five. For information about the Early Years Foundation Stage, please see the separate section of this guidance which starts on page 101. Compulsory school age ends on the last Friday of June in the school year in which the pupil becomes 16. This is separate to the ‘participation age’ where pupils are required to continue in education or training until at least their 18th birthday. This does not necessarily mean staying in school; young people have a choice about how they continue in education or training post-16, for example, it could be through full-time study in a school, college or with a training provider, full-time work or volunteering combined with part-time education or training, or an apprenticeship. The curriculum for pupils above compulsory school age should allow scope for their talents and interests and help to prepare them effectively for the opportunities, responsibilities and experiences of adult life in modern British society.

Exemptions from the learning and development requirements in the EYFS

52. Where a school is satisfactorily following the EYFS framework, regulation 2(f) will be met. If an exemption from the learning and development requirements has been taken up, inspectors should use their professional judgement to assess whether the alternative curriculum in operation meets the educational needs of children below compulsory school age.

Opportunity to learn and make progress

53. This regulation is crucial in judging the adequacy of the curriculum. In particular, no school can meet the standard if any significant group of its pupils is not properly provided for. This includes those with special educational needs or learning difficulties, those for whom English is an additional language, and the most able. Additionally, this regulation also encompasses those pupils who have other particular needs such as those who perform a caring role at home as young carers and what additional actions are required to ensure these pupils receive the support they need to achieve educationally while taking into full consideration the impact of their caring responsibilities.

Preparation for life in British society

54. From January 2015, preparation for future life should be ‘effective’ rather than ‘adequate’ and the standard has the additional focus of ‘British society’. This has been [explained by the DfE](#) as ‘...developing in every young person the values, skills and behaviours they need to get on in life. All children should receive a rich provision of classroom and extra-curricular activities that develop a range of character attributes, such as resilience and grit, which underpin success in education and employment.’

IMPLEMENTATION

55. As in-depth reporting about educational outcomes for pupils is the remit of the dedicated Educational Quality Inspections, Regulatory Compliance Inspections take a lighter touch approach to educational quality, checking simply that the minimum requirements are met for the school to remain registered. During Regulatory Compliance Inspection, the effective implementation of the curriculum policy may be checked through sampling activities such as:
- direct observation of lessons;
 - responses of parents and pupils to questionnaires;
 - interviews with pupils and staff;
 - scrutiny of work, records and documentation; and
 - analysis of data, including comparison with national norms, where possible.
56. Inspectors will also be alert to counter-indications in accordance with the requirements not to undermine fundamental British values through the curriculum and to promote respect for others through the PSHE curriculum.

EYFS → Learning and development requirements, Note E1

Paragraph 3 – Teaching

The standard in this paragraph is met if the proprietor ensures that the teaching at the school—

- (a) enables pupils to acquire new knowledge and make good progress according to their ability so that they increase their understanding and develop their skills in the subjects taught;
- (b) fosters in pupils self-motivation, the application of intellectual, physical and creative effort, interest in their work and the ability to think and learn for themselves;
- (c) involves well-planned lessons and effective teaching methods, activities and management of class time;
- (d) shows a good understanding of the aptitudes, needs and prior attainments of the pupils, and ensures that these are taken into account in the planning of lessons;
- (e) demonstrates good knowledge and understanding of the subject matter being taught;
- (f) utilises effectively classroom resources of a good quality, quantity and range;
- (g) demonstrates that a framework is in place to assess pupils’ work regularly and thoroughly and use information from that assessment to plan teaching so that pupils can progress;
- (h) utilises effective strategies for managing behaviour and encouraging pupils to act responsibly;
- (i) does not undermine the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs;
- (j) does not discriminate against pupils contrary to Part 6 of the Equality Act 2010.

Paragraph 4 – Framework for pupil performance

The standard in this paragraph is met where the proprietor ensures that a framework for pupil performance to be evaluated, by reference to the school’s own aims as provided to parents or national norms, or to both, is in place.

57. From January 2015, pupils must make ‘good’ progress according to their ability. ISI’s data analysis will indicate if this is not the case in public examinations, and inspectors should seek advice from the duty team via the ISI Office if there are any concerns about progress judgements during the inspection. Teaching is now required to include ‘good’ understanding of pupils’ needs, ‘good’ subject knowledge and using resources of ‘good’ quality. ‘Good’ is the standard to be reached for an inspection judgement of ‘met’ in a Compliance Inspection; it is not a direct reference to a judgement grade in an Educational Quality Inspection.
58. The teaching standard stresses the effectiveness of teaching rather than any preferred methods. Thus, in judging Part 1, paragraphs 3(g) and 4, inspectors should not hunt for elaborate written ‘frameworks’.
59. It needs to be clear that the teaching does systematically assess pupils and use that assessment to plan and modify provision for them. Inspectors must not interpret Part 1, paragraphs 3(g) and 4 in a way that in effect makes nationally standardised testing or National Curriculum assessment a requirement. The issue is whether the school’s approach to assessment is effective in supporting pupils to make progress.
60. In general, teachers and other staff in independent schools are not required to hold specified teaching qualifications, but they are expected at least to have relevant expertise or experience. Schools should also employ adequate quantity and quality of ancillary and childcare staff in residential schools. Further

guidance on legal requirements applying in the EYFS and for boarding are outlined in the relevant sections of this document.

61. Additionally, teaching must not undermine fundamental British values or discriminate against pupils contrary to the Equality Act, that is, on the basis of the [protected characteristics](#).

Discrimination

62. Advice for schools about how to avoid discriminating unlawfully is available from the website of the [Equality and Human Rights Commission](#) and in the DfE non-statutory advice: [The Equality Act 2010 and Schools](#).
63. Following the Court of Appeal judgement in the Al-Hijrah case, discussed in more detail below, ISI has been asked to develop its approach to the inspection of the standard in Part 1, paragraph 3(j): ‘The teaching does not discriminate against pupils contrary to Part 6 of the Equality Act 2010’.
64. In considering whether teaching discriminates, ‘teaching’ is interpreted in this context to include the hidden ‘lessons’ to children implicit in any school activity (such as the arrangements for lunch) about their value as a person, their human rights, the options available to them and their expectations for adult life on account of their sex.
65. The standard in 3(j) would potentially enable regulatory action to be taken by the DfE under the registration standards if either inspectors or a court/tribunal were to find the teaching in a school to be discriminating against pupils, as above. However, the inter-action between court/tribunal rulings during litigation and inspection findings may not always be straightforward:
- An inspection finding of compliance would be informative but unlikely to be conclusive in litigation against a school for discrimination due to the differential in time and specialist expertise that a court/tribunal would be able to bring to the scrutiny of evidence.
 - A court or tribunal finding that the teaching in a school has discriminated against a pupil or pupils in a particular instance would put a school in breach of paragraph 3(j). Such a ruling would form part of the evidence available to inspectors but would not necessarily be conclusive evidence of on-going discriminatory practice at the time of a particular inspection. Compliance with the standards is to be judged at the time of inspection. In respect of a ruling against a school concerning discrimination related to teaching, inspectors should consider whether the terms of any order have been complied with, all the facts ‘on the ground’ at the time of the inspection and whether there remains any systemic issue to be resolved.

Sex discrimination by segregation

66. The judgement of the Court of Appeal in [HM Chief Inspector of Education, Children’s Services and Skills –v- Interim Executive Board of Al-Hijrah School and others \(2017\)](#) has refined the understanding of the implications of the Equality Act 2010 for gender segregation in co-educational schools. The government has issued important non-statutory advice to schools about the case: [Gender separation in mixed schools](#).
67. In Al-Hijrah the Court held that strict gender segregation throughout a co-educational school was unlawful discrimination against both boys and girls. A co-educational school organised in this way does not meet the standard in paragraph 3(j).
68. For inspection purposes, it will assist inspectors to first understand what is lawful.
69. **Single sex education in single sex schools** – The lawfulness of single-sex education in single-sex schools is not in question, as a general principle, due to express provisions in the Equality Act 2010. More detailed advice about single-sex schools, and the exceptional circumstances in which sex discrimination could arise, can be found in the DfE’s advice: [The Equality Act 2010 and Schools](#). For example, where a single-sex schools admits a small number of pupils of the other sex to the sixth form but does not permit them to go on the same visits as other pupils, this could be unlawful discrimination. The advice confirms

that a single-sex school which permits a pupil who is undergoing gender reassignment to remain after they adopt their new gender would not lose its single-sex status.

70. **Single sex sport** – The following passage from the DfE’s: [The Equality Act 2010 and Schools](#) assists:

3.20 Although the Equality Act forbids discrimination in access to benefits, facilities and services; the Act does contain an exception which permits single-sex sports. It applies to participation in any sport or game, or other activity of a competitive nature, where the physical strength, stamina or physique of the average woman (or girl) would put her at a disadvantage in competition with the average man (or boy). But while this exception might permit a mixed school to have a boys-only football team, the school would still have to allow girls equal opportunities to participate in comparable sporting activities. The judgement on whether girls would be at a physical disadvantage needs to take into account the particular group in question, so it is much less likely to justify segregated sports for younger children. Where separate teams exist, it would be unlawful discrimination for a school to treat one group less favourably – for example by providing the boys’ hockey or cricket team with much better resources than the girls’.

71. **Positive action** – Under the Equality Act, section 158, single sex classes may be justified on the grounds of ‘positive action’ if the school reasonably thinks that:

- girls or boys suffer a disadvantage connected to their sex;
- girls or boys have needs that are different from the needs of the other sex;
- participation in an activity by girls or boys is disproportionately low.

Schools may lawfully take proportionate action to address these issues. Examples given in the DfE guidance are that it is lawful to teach sex education and elements of PSHE in single sex classes or do more to encourage girls to participate in STEM subjects. But it would be unlawful to provide remedial classes for boys who needed help with reading to close a gap in average attainment between boys and girls, without doing the same for girls in a similar position.

The Equality Act 2010 and Schools advises that where single-sex classes are provided, pupils undergoing gender reassignment should be allowed to attend the single-sex class that accords with the gender role in which they identify.

Other segregation by gender

72. The Al-Hijrah judgement is clear that, subject to the above examples where the Equality Act expressly allows for it, segregation by protected characteristics is unlawful but stated: ‘It is not the mere fact of segregation which gives rise to discrimination ... but rather it is the impact on the quality of education which pupils would receive but for their respective sex.’

IMPLEMENTATION

73. Where inspectors encounter segregation of pupils by gender (other than for competitive sport or positive action, both of which are lawful), they are asked to consider:

- how the segregation impacts the quality of education of children of each gender. Examples of relevant considerations: social development including opportunities for interaction with opposite sex, preparation for adult life, availability to pupils of real and meaningful choice, gender stereo-typing through curriculum design, the social and cultural mores of the school, access to academic options and co-curricular activities.
- the impact on the quality of education which pupils would receive but for their respective sex
- whether there is actual or potential detriment to the quality of education of either boys or girls or both. Examples of detriment might be: promoting stereotypical attitudes about the ability of girls or boys, or about the role of women in society or in the home; endorsing gender stereotypes; conveying a pejorative message; defeating other messages about equal

opportunities; deprivation of opportunities to participate in social networks (which may affect career prospects); deprivation of choice.

74. In reaching a judgement, the views expressed by pupils in questionnaires and interviews will be highly relevant on matters such as whether they feel their choices are restricted because they are a boy/girl and whether they feel discriminated against.
75. Where inspectors find segregation which has a negative impact, the team must consider whether the actual or potential detriment is material. A judgement of material detriment to a pupil of either sex will point to a judgement of non-compliance with the standard in 3(j). In line with routine inspection protocols, all supporting evidence and the rationale for decisions must be clearly recorded in the Record of Evidence.
76. The Court in Al-Hijrah commented that the Secretary of State should allow time for schools affected to put their houses in order. Where there is a judgement of non-compliance with 3(j), we understand that the DfE would, therefore, not necessarily take immediate regulatory action at present, unless the particular situation required it, subject to production of an effective action plan by the school.

EYFS → Assessment, Section 2 – Assessment

Part 2 – Spiritual, moral, social and cultural development of pupils

Paragraph 5 – SMSC

The standard about the spiritual, moral, social and cultural development of pupils at the school is met if the proprietor—

- (a) actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs;
- (b) ensures that principles are actively promoted which—
 - (i) enable pupils to develop their self-knowledge, self-esteem and self-confidence;
 - (ii) enable pupils to distinguish right from wrong and to respect the civil and criminal law of England;
 - (iii) encourage pupils to accept responsibility for their behaviour, show initiative and understand how they can contribute positively to the lives of those living and working in the locality in which the school is situated and to society more widely;
 - (iv) enable pupils to acquire a broad general knowledge of and respect for public institutions and services in England;
 - (v) further tolerance and harmony between different cultural traditions by enabling pupils to acquire an appreciation of and respect for their own and other cultures;
 - (vi) encourage respect for other people, paying particular regard to the protected characteristics set out in the 2010 Act; and
 - (vii) encourage respect for democracy and support for participation in the democratic process, including respect for the basis on which the law is made and applied in England;

77. Schools are not required to have a separate SMSC policy. Although the title of the standard includes reference to ‘spiritual’ development, faith and religion are not specified here and the requirements of the standard, as described in paragraphs (a) – (d), do not deal with (or require schools to deal with) each of ‘spiritual, moral, social and cultural’ as separate educational areas. The focus of the standard is upon the values and principles which are to be inculcated in pupils by the ethos and education throughout the school.
78. The idea of ‘fundamental British values’ was coined by the *Prevent* strategy in 2011 and first introduced into the ISSR on 1 January 2013. This was built on by amendments to the standards from 29 September 2014. Two non-statutory DfE [advice documents](#) support the requirements.

Active promotion of values and principles

79. From September 2014, schools are required to ‘actively promote’ both
- the fundamental British values identified in Part 2, paragraph 5(a) and
 - the principles in Part 2, paragraph 5(b).
80. Explaining the nature of the changes, the government has stated that this will necessitate little or no change in many high-performing schools. ‘A good school that properly promotes British values will by definition already promote such values actively’ and ‘many good schools are already actively promoting fundamental British values by virtue of their approach...’. ‘The changes are aimed at those schools that barely meet that standard, without taking positive steps to embed those values throughout the ethos of their school. The new requirement to actively promote principles that encourage respect for other people will have no impact on the vast majority of schools, where it is normal practice to encourage pupils to respect other people.’

81. The DfE advice emphasises that SMSC can be ‘infused’ within the day-to-day operation of a school and that expectations must be adjusted for the age and ability of pupils including those with special needs. The changes mean that rather than encouraging ‘respect’ for fundamental British values, schools must now ‘actively promote’ these.
82. By judging the quality of the outcomes of the school’s PSHE provision, the inspection of ‘The spiritual, moral, social and cultural (SMSC) development of the pupils’ should contribute to the evaluation of compliance with Part 1, paragraph 2(2)(d) of ‘Quality of education provided (curriculum)’.
83. ‘Active promotion’ of fundamental British values suggests that schools should have a strategy to achieve this and should be able to provide evidence of implementation. Examples of such evidence include PSHE programmes, plans for assemblies, schemes of work in relevant curriculum subjects, work of a school council, and pupil handbooks. Discriminatory or extremist opinions or behaviours should be challenged as a matter of routine.
84. Paragraph 5(b)(ii) specifies respect for the civil and criminal law of England, and the DfE advice suggests that any teaching about religious law makes clear the difference between state law and religious law. Paragraph 5(b)(iv) includes a new requirement for pupils to acquire a respect for public institutions and services. Paragraphs 5(b)(v) and (vi) focus on respect for others cultural traditions and non-discrimination against [protected characteristics](#). These requirements do not require schools to promote lifestyles contrary to their ethos but do require respect for other people. According to paragraph 5(b)(vii), schools are to encourage pupils to understand the value of democracy and their participation in the democratic process.
85. The DfE non-statutory guidance of November 2014 advises as follows.

The list below describes the understanding and knowledge expected of pupils as a result of schools meeting [paragraph 5(a)] of the standard

- *an understanding of how citizens can influence decision-making through the democratic process;*
- *an appreciation that living under the rule of law protects individual citizens and is essential for their well-being and safety;*
- *an understanding that there is a separation of power between the executive and the judiciary, and that while some public bodies such as the police and the army can be held to account through Parliament, others such as the courts maintain independence;*
- *an understanding that the freedom to hold other faiths and beliefs is protected in law;*
- *an acceptance that people having different faiths or beliefs to oneself (or having none) should be accepted and tolerated, and should not be the cause of prejudicial or discriminatory behaviour;*
- *an understanding of the importance of identifying and combatting discrimination.*

IMPLEMENTATION

86. There is no prescribed list of requirements at present to support the duty actively to promote fundamental British values. This means that schools have discretion as to how they approach meeting this standard. During the inspection, personal development of pupils will be assessed through a wide range of inspection evidence such as:
 - observation of interactions in the school;
 - responses of parents and pupils to questionnaires;
 - interviews with pupils and staff; and
 - scrutiny of records and documentation.

Paragraph 5 – SMSC continued

...the proprietor...

- (c) precludes the promotion of partisan political views in the teaching of any subject in the school; and
- (d) takes such steps as are reasonably practicable to ensure that where political issues are brought to the attention of pupils—
 - (i) while they are in attendance at the school;
 - (ii) while they are taking part in extra-curricular activities which are provided or organised by or on behalf of the school; or
 - (iii) in the promotion at the school, including through the distribution of promotional material, of extra-curricular activities taking place at the school or elsewhere, they are offered a balanced presentation of opposing views.

87. The purpose of Part 2, paragraphs 5(c) and (d) is to prevent the political indoctrination of pupils through the curriculum. The DfE non-statutory advice of November 2013 explains.

The aim of this new part of the standard is to prevent the political indoctrination of pupils through the curriculum. The wording is based on section 406(1)(b) of the Education Act 1996, which applies to maintained schools. As explained below, the aim is not to prevent pupils from being exposed to political views or from discussing political issues in school. Pupils should not, however, be actively encouraged by teachers or others to support particular political viewpoints. This part of the standard should be read in conjunction with 5(1)(c).

The following are definitions of the key terms used in this part of the standard.

- **Partisan** - in a case relating to the alleged promotion of partisan political views in maintained schools the judge considered that the best synonym for 'partisan' was 'one-sided'.
- **Political views** – views expressed for a political purpose. A political purpose is either directly or indirectly:
 - to further the interests of a particular political party; or
 - to procure changes to the laws of this or another country; or
 - to procure the reversal of government policy or of particular decisions of governmental authorities in this or another country.

88. Schools are not required to document how they prevent political indoctrination but should be ready to explain to inspectors their guidelines on teaching of political issues. The following guidance in relation to the Marriage (Same Sex Couples) Act 2013 is useful in highlighting the principles that are equally applicable to other issues.

It is recognised that schools with a religious ethos will want to reflect that ethos in the teaching they provide, and the current framework allows that. There is no curriculum requirement on independent schools to teach about marriage but when they do so they must ensure that what they teach accords with the Independent School Standards, including on pupils' Spiritual, Moral, Social and Cultural development. A balanced curriculum is one that, amongst other things, reflects the nature of the world we live in. If marriage were to be discussed in lessons, we would expect teachers to reflect the fact that marriage for same sex couples is part of the law of this country, but there is no requirement on them to endorse it. There is nothing in the Equal Marriage Act that inhibits the rights of teachers or schools to express religious or philosophical views about marriage in lessons. Article 9 of the European Convention on Human Rights guarantees freedom of thought, conscience and religion, and religion or belief is a protected characteristic under the Equality Act 2010. However, teachers and schools must ensure their conduct recognises their responsibilities under those duties to others. Teachers are expected to respect

the rights of others and to respect those with different beliefs; expressing a view in an unprofessional way that involved singling out pupils on grounds of sexuality or presenting extreme views without balance on a topic such as marriage for same sex couples, would be considered inappropriate.

IMPLEMENTATION:

89. Inspectors will consider programmes of study and extra-curricular events to assess whether reasonable steps have been taken to ensure a balanced presentation of views. Schools are not required to take a mechanistic approach to balance; it is enough to show that balance is achieved over a period of time.

Part 3 – Welfare, health and safety of pupils

Paragraph 7 – Safeguarding

The standard in this paragraph is met if the proprietor ensures that—

- (a) arrangements are made to safeguard and promote the welfare of pupils at the school; and
- (b) such arrangements have regard to any guidance issued by the Secretary of State.

90. The DfE guidance to which schools must [have regard](#) is:

- [Keeping Children Safe in Education](#) (September 2018) (*KCSIE*)
- *KCSIE* incorporates the additional statutory guidance, [Disqualification under the Childcare Act 2006](#) (September 2018)
- *KCSIE* also refers to the non-statutory advice for practitioners: [What to do if you're worried a child is being abused](#) (March 2015)
- [Working Together to Safeguard Children](#) (September 2018) (*WT*)
- *WT* refers to the non-statutory but important advice: [Information sharing](#) (2018)
- [Prevent Duty Guidance: for England and Wales](#) (July 2015) (*Prevent*). *Prevent* is supplemented by non-statutory advice and a briefing note:
- [The Prevent duty: Departmental advice for schools and childminders](#) (June 2015)
- [The use of social media for on-line radicalisation](#) (July 2015)

91. ***KCSIE*** – *KCSIE* requires governing bodies and proprietors to ensure there is an effective safeguarding/child protection policy in place. The policy must describe the school's arrangements which must have regard to *KCSIE*. The duty to 'have regard' to guidance means that schools should comply with it unless there is a good reason not to. 'Must' and 'should' are used carefully in *KCSIE* and this is replicated here. 'Must' is used when a person is legally required to do something, 'should' when the advice in *KCSIE* should be followed unless there is a good reason not to. To meet the standard, the arrangements described in the policy must also be implemented in practice. If the school is found not to be following an aspect of the guidance expressed in terms of 'should', inspectors will enquire whether there was a good reason not to and, if so, consider whether the school acted reasonably in departing from the guidance in that instance.

92. ***Working Together to Safeguard Children (WT)*** – Schools must also have regard to *WT*, which is the national guide to inter-agency working. *WT* sets the over-arching principles and system for safeguarding and promoting the welfare of children and gives thumb-nail sketches of the duties of a range of agencies showing how their role links in. The importance of organisational culture is now recognised in the statutory guidance. Schools should have a culture of safety, equality and protection.

93. *WT 2018* sets out important national systemic changes which are just beginning: in place of Local Safeguarding Children Boards (LSCBs), local safeguarding arrangements are to become the responsibility of three 'safeguarding partners'. These will be the local authority (LA), a clinical commissioning group (CCG) in the area and a chief of police for a local force. The partners' geographical area of responsibility will be based on the LA area (not always contiguous with CCG or police force areas). The safeguarding partners will select 'relevant agencies' whose involvement they require. Those agencies will then come under a statutory duty to co-operate and act in accordance with the published local arrangements. It is expected that all local safeguarding partners will name schools and colleges as relevant agencies and make arrangements to allow them to be fully engaged in the new local safeguarding arrangements. A new system of child death review partner arrangements is also being put

in place. Both these new systems will feed into the new national Child Safeguarding Practice Review Panel the role of which will be to promote improvement nationally.

94. **WT – National transition arrangements 2018/19** – LA areas must begin to transition from LSCBs to safeguarding partner and child death review partner arrangements from June 2018. The transition must be completed by 29 September 2019. Little may change at school level in the immediate future though it may be expected that arrangements in different localities will develop in different ways and to slightly different internal timetables. Inspectors should expect to see schools endeavouring to engage with the local processes as usual and to work constructively to support transition arrangements where requested.
95. **Other safeguarding duties** – This standard also covers broader safeguarding duties such as making reports to the [Disclosure and Barring Service](#) (DBS) and pre-appointment checks on [volunteers](#), [staff of contractors](#), and other individuals that are not school [staff](#) or [supply staff](#) which must be completed according to the requirements set out in *KCSIE*. For all information about suitability checks, including those reported under 7(a) and (b), see note 268 onwards.
96. **Other national structural developments** – The National College for Teaching and Leadership (NCTL) has been repurposed and no longer exists. Regulation of the teaching profession, including misconduct hearings, will continue to be handled by an executive agency of the DfE, the Teaching Regulation Agency (TRA). The TRA started operation on 1 April 2018. All other [NCTL functions have been moved into the DfE](#). The compliance issue is not using the correct name in a policy (although it is better for out-of-date references to be corrected) but making the correct referrals in a timely fashion.

Safeguarding policy

97. *KCSIE* does not expressly specify the required content of the safeguarding/child protection policy, except for a few elements. For inspection purposes key content has been agreed with the DfE. The box below contains the headline indicators that the arrangements described in the policy have regard to *KCSIE*, as required. Considerable additional information is in *KCSIE* and summarised in the additional notes below. Inspectors must evaluate the significance of any errors, omissions or lack of detail in the arrangements described, in the context of the particular school, to determine whether the arrangements have sufficient regard to *KCSIE* to be judged compliant.

SAFEGUARDING POLICY CONTENT

98. Core content:

- The school’s commitment to acting in the best interests of the child.
- The school’s procedures for dealing with and referring concerns about children in need and/or at risk, in accordance with locally agreed inter-agency procedures including
 - references to up-to-date key statutory guidance (as set out in note 90 above)
 - name of the Local Safeguarding Children Board (or local safeguarding partners)
 - in-school provision for listening to children and for early help
 - up-to-date definitions of abuse, recognising the particular vulnerabilities of those with SEN/D including to peer-on-peer abuse.
- The school’s arrangements for dealing with allegations of peer-on-peer abuse, including sexting and any other relevant issues, and how victims and perpetrators will be supported.
- The school’s arrangements for handling allegations of abuse against members of staff, volunteers and the head, including reporting to the DBS/TRA.
- The school’s staff code of conduct/behaviour policy, or reference to the separate policy.
- Whistleblowing procedures, or reference to a separate policy.
- The school’s recruitment procedures, or reference to the separate policy.
- Management of safeguarding including the identity and role of the designated safeguarding lead(s), providing sufficient cover for this role, including in the EYFS.
- The training of the designated person, staff, volunteers and the head.
- How the board ensures proper oversight of safeguarding, including the identity of the board-level lead for safeguarding and arrangements for reviewing the school’s child protection policies and procedures annually.
- The school’s arrangements to fulfil other safeguarding and welfare responsibilities including teaching children how to keep safe on-line, and arrangements for looked-after children, if relevant.
- Sufficient contact details to make the policy workable in practice.
- The school’s policy on the use of mobile technology in school (recommended).
- The school’s policy on the use of mobiles and cameras in the EYFS.

FURTHER GUIDANCE

99. The notes below provide further detailed guidance about the points which must be included in the safeguarding policy and implemented, and others which must also form part of the school’s practice whether or not referenced in the policy. The guidance in this section is necessarily generic, and it is important that schools tailor policies to fit local requirements and the context of the school. Where this has not occurred, and the issues are significant in the context of a school being inspected, they will be considered when reaching judgements about compliance.

Concerns about a child

100. The school’s policy should articulate the school’s recognition of the duty to consider at all times the best interests of the child and take action to enable all children to have the best outcomes.

101. The policy must be based on and expressly refer to the most up-to-date guidance, as set out above.
102. Pending transition to new arrangements at local level (see note about *WT 2018* above), the school policy must clearly identify the Local Safeguarding Children Board (LSCB) which sets the local procedures. Thereafter, it is expected that it will be appropriate for schools to identify the local safeguarding partnership which will perform a similar function.
103. It must be clear in the policy that there are arrangements in school for listening to children and providing early help.
104. The policy must set out guidance for staff and others on what to do if they are concerned, and the main points of local procedures (including naming the LA(s) to which referrals are to be made). It should be clear that normal referral processes are also available when there are concerns about children who may be at risk of being drawn into terrorism. It is acceptable to identify where the full local procedures are available (eg the LSCB/safeguarding partners website link or location in the school of printed copies), but the policy itself must be sufficiently detailed for staff and parents to use when needed. Contact details for agency involvement, should also be displayed prominently, including those for support and advice about extremism, for example, the local authority *Prevent* lead in *Prevent* priority areas, the local police force, 101 (the non-emergency police number) and the DfE dedicated telephone helpline and mailbox for non-emergency advice for staff and governors: 020 7340 7264 and counter.extremism@education.gov.uk.
105. Whilst the guidance places the responsibility for making decisions about referrals with the school's designated safeguarding lead (DSL), referrals must in practice be in line with published local referral thresholds, and it must be clear in the policy that anyone can make a referral, if necessary. *KCSIE* notes the importance of children receiving the right help at the right time to address risks and prevent issues escalating, the importance of acting on and referring the early signs of abuse and neglect, radicalisation, keeping clear records, listening to views of the child, reassessing concerns when situations do not improve, sharing information quickly and challenging inaction.
106. Up-to-date definitions of safeguarding and abuse, and the signs and forms of abuse, should be included in the policy and reflect those included in the guidance documents. The policy should show recognition of the particular vulnerability of children with special educational needs and/or disabilities, including to peer-on-peer abuse. Specific, proportionate reference should be made and procedures described, as appropriate to the pupil cohort of the school, to concerns such as [children missing education](#), domestic abuse, [female genital mutilation \(FGM\)](#), child sexual exploitation, radicalisation, so-called honour-based violence and forced marriage so that staff and others know how to identify children in need or at risk and how to respond. Specific attention should be given to safeguarding arrangements where children are engaged in close one-to-one teaching, particularly in specialist performing arts and sports provision.
107. The policy should differentiate between safeguarding children who have suffered or are likely to suffer significant harm and those who are in need of additional support from one or more agencies. Subject to local procedures and reporting thresholds which can vary, the former should be reported to Children's Social Care immediately; the latter should lead to early help, inter-agency assessment and intervention using local processes, including use of the 'Common Assessment Framework' (CAF) and 'Team around the Child' (TAC) approaches.
108. In the case of pupils identified as being at risk of radicalisation, institutions will need to consider the level of risk to identify the most appropriate referral, which could include [Channel](#) or Children's Social Care, for example.
109. In the case of FGM, from October 2015, it has been mandatory for teachers to report to the police cases where they discover that an act of FGM appears to have been carried out. Unless the teacher has good reason not to, they should still consider and discuss such a case with the school's designated safeguarding lead and involve children's social care as appropriate. The policy should note this duty where relevant to the school (eg the school has female pupils).

110. Schools should have procedures in place to identify and respond to children who go missing, particularly on repeat occasions, and mention these in their policy. This issue is dealt with in more detail in note 231 below which relates to admission and attendance registers. From September 2016, failure to report children missing education to local authorities when required is to be reported under paragraph 15 (relating to registration requirements) rather than paragraph 7. **From September 2018**, schools should hold more than one emergency contact number for each pupil, 'where reasonably possible'. For pupils who have two or more parents or carers, the new requirement is likely to be met already as a result of the requirement in the registration standard, in paragraph 15 below, for schools to have details of each parent and at least one telephone number for each. Inspectors should probe how schools ensure they have more than one emergency contact number, where reasonably possible, for pupils with fewer than two parents.
111. Although decisions to seek support for a child in need, or about whom there are radicalisation concerns, would normally be taken in consultation with parents and pupils, there should be no suggestion in the school policy that their consent is required for a referral when there are reasonable grounds to believe that a child is at risk of significant harm.
112. *WT* stresses the importance of creating an environment where staff feel able to raise concerns and feel supported in their safeguarding role, and *KCSIE* makes clear that any member of staff may make a referral to external agencies. Guidance should be included in the policy on the actions that staff members should take when receiving a disclosure including explaining that confidentiality cannot be promised. The former guidance not to ask leading questions is no longer mentioned in *KCSIE* or 'What to do' and cannot, therefore, be considered a compliance requirement, but inspectors may advise that it is still generally considered good practice advice.

Arrangements for dealing with peer-on-peer abuse and allegations

113. The policy should include procedures for dealing with abuse by one or more pupils against another pupil.
114. The policy should include:
- the different forms peer-on-peer abuse can take: sexual violence, sexual harassment, physical abuse, sexting (youth-produced sexual imagery), initiation/hazing type violence and rituals;
 - an outline of procedures to minimise the risk of peer-on-peer abuse;
 - how allegations of peer-on-peer abuse will be recorded and dealt with;
 - a clear statement that abuse is abuse and should never be tolerated or passed as mere 'banter' or 'having a laugh';
 - particularly in co-educational schools, recognition of the gendered nature of peer-on-peer abuse but be clear that all peer-on-peer abuse is unacceptable and will be taken seriously;
 - clear processes for how victims, perpetrators and any other child affected will be supported.
115. The policy may mention that the threshold for dealing with an issue of pupil behaviour or bullying under the safeguarding policy is, subject to local specifics as in any other case: when there is 'reasonable cause to suspect that a child is suffering, or likely to suffer, significant harm'. It should be clear in the policy that the response will include that any such abuse will be referred to local agencies. It would be an expectation that in the event of disclosures about pupil-on-pupil abuse that all children involved, whether perpetrator or victim, are treated as being 'at risk'. Advice about sexting in schools is available from the UK Council for Child Internet Safety (UKCCIS): [Sexting in schools and colleges](#).

Arrangements for dealing with allegations of abuse against teachers and other staff

116. Part 4 of *KCSIE* provides the most recent guidance on this issue. *WT* requires local authorities to designate an officer or team of officers to deal with the management and oversight of allegations against people who work with children. The acronym '**LADO**' was removed from *KCSIE* and *WT* from

April 2015 in favour of ‘designated officer’, or ‘team of officers’, to indicate that local authorities now have some discretion over their approach. This does not prevent local authorities, schools and others continuing to use it as appropriate. ISI continues to use the acronym ‘LADO’ for brevity. The nomenclature which schools use in their policies is not a compliance issue *per se*; the compliance issue is whether safeguarding arrangements are effective. Policies should reflect LSCB/local safeguarding partner arrangements and, therefore, should be updated in line with local changes.

117. If an allegation is made against anyone working with children in a school, all unnecessary delays should be eradicated. Schools must not undertake their own investigations of allegations without prior consultation with the LADO(s), or in the most serious cases, the police, so as not to jeopardise statutory investigations. Inspectors may advise that, in borderline cases, discussions with the LADO(s) can often be held informally and without naming the school or individual.
118. The procedures must make it clear that all allegations which appear to meet the reporting criteria in *KCSIE* are to be reported straight away, normally to the head, but if the designated person is identified to receive referrals in the policy, the head must be kept informed. The procedures must also identify the person, usually the chair of governors, to whom reports should be made in the absence of the head, or in cases where the head is the subject of the allegation or concern. Where an allegation is against the head, the head must not be informed of the allegation prior to contact with the chair and LADO. Where the head is also a sole proprietor, it should be stated clearly that allegations should be reported directly to the LADO. The LADO(s) should be informed within one working day of all allegations that come to an employer’s attention or that are made directly to the police. Procedures should, therefore, include prominent contact details for the LADO(s) to facilitate this.
119. It should be clear in the policy that immediate contact should be made with the LADO(s) to discuss any allegation, consider the nature, content and context of the allegation and agree a course of action including any involvement of the police. Discussions should be recorded in writing, and any communication with both the individual and the parents of the child/children agreed. Schools must consider carefully whether the circumstances of the case warrant suspension or whether alternative arrangements should be put in place. Schools should give due weight to the views of the LADO, *KCSIE* and *WT* when making a decision about suspension.
120. From 1 October 2012, there are restrictions on the reporting or publishing of allegations against teachers, and so schools must make every effort to maintain confidentiality and guard against unwanted publicity. These restrictions apply up to the point where the accused person is charged with an offence, or the DfE/TRA publish information about an investigation or decision in a disciplinary case.
121. The policy should also contain the school’s commitment to report promptly to the DBS any person (whether employed, contracted, a volunteer or student) whose services are no longer used for regulated activity and the DBS referral criteria are met, that is, they have caused harm or posed a risk of harm to a child.
122. Ceasing to use a person’s services includes: dismissal; non-renewal of a fixed-term contract; no longer engaging/refusing to engage a supply teacher provided by an employment agency; terminating the placement of a student teacher or other trainee; no longer using staff employed by contractors; no longer using volunteers; resignation; and voluntary withdrawal from supply teaching, contract working, a course of initial teacher training, or volunteering. It is important that reports include as much evidence about the circumstances of the case as possible. Failure to make a report when required constitutes an offence. ‘Compromise agreements’ cannot be used to prevent a referral being made to the DBS when it is legally required, nor can an individual’s refusal to cooperate with an investigation. Proprietors of independent schools have a legal duty to respond to requests from the DBS for information they hold already, but they do not have to find it from other sources. Schools will be asked, as part of routine inspection, to confirm that they have disclosed to inspectors all instances of action in relation to safeguarding concerns.

123. Independent schools are also under a duty to consider making a referral to the TRA where a teacher has been dismissed (or would have been dismissed had he/she not resigned) and a prohibition order may be appropriate, and should make reference to this in their policies. The reasons such an order would be considered are: ‘unacceptable professional conduct’, ‘conduct that may bring the profession into disrepute’ or a ‘conviction, at any time, for a relevant offence’. Advice about whether an allegation against a teacher is sufficiently serious to refer to the TRA can be found in [Teacher misconduct: the prohibition of teachers](#) (October 2015). Further guidance is published on the [Teaching Regulation Agency website](#).

Staff behaviour policy

124. The school should have a staff behaviour policy/code of conduct, either in the safeguarding policy or a separate document signposted from the safeguarding policy. *KCSIE* requires that it cover as a minimum: acceptable use of technologies, staff/pupil relationships and communications, the use of social media, and whistleblowing. When drafting the staff behaviour policy, schools should bear in mind that it is an offence for a person aged 18 or over, such as a teacher, to have a sexual relationship with a child under 18 where that person is in a position of trust in respect of that child, even if, in the case of those over 16, the relationship is consensual. The aim of the staff behaviour policy is to provide clear guidance about behaviour and actions so as not to place pupils or staff at risk of harm or of allegations of harm to a pupil. The guidance should be tailored to the school, for example, including access to accommodation in a boarding school, and changing arrangements in a nursery class. Other possible points for inclusion are in one-to-one tuition, music, performing arts or sports coaching, conveying a pupil by car, engaging in inappropriate electronic communication with a pupil, and so on. The safeguarding policy should either incorporate the staff behaviour policy or signpost parents to it.

Whistleblowing procedures

125. *KCSIE* requires schools to have clear whistleblowing procedures suitably referenced in staff training and staff codes of conduct. The key principles, mentioned in *WT* and adapted for schools, can be summarised as follows:
- a school should have a culture of safety and of raising concerns;
 - it should have a culture of valuing staff and of reflective practice;
 - there should be procedures for reporting and handling concerns, including about poor or unsafe practice and potential failures in the school’s safeguarding regime, provision for mediation and dispute resolution where necessary;
 - training and support should be provided for staff;
 - there should be transparency and accountability in relation to how concerns are received and handled.
126. Schools are likely already to be meeting much of this requirement as a result of having regard to *KCSIE*; *KCSIE* already requires that clear processes for the reporting of allegations be recorded in the safeguarding policy and disseminated through training. Schools are not required to create new, stand-alone whistleblowing policies where their safeguarding policy, or other existing policy documents cover the recommended ground (although they may do so). However, whistleblowing procedures should be referred to in the staff code of conduct.

Safer recruitment

127. The safeguarding policy should record the school’s commitment to safer recruitment processes and either include details of the school’s recruitment and selection policy and procedures or refer to them. The policy should set out the school’s process from beginning to end, including details of the required checks. The section in this document about Part 4 of the regulations starting at note 268 gives further details.

128. *Prevent* requires schools to have clear protocols for ensuring that any visiting speakers, whether invited by staff or by the pupils themselves, are suitable and appropriately supervised. No specific policy or document is prescribed by the *Prevent* guidance for this. The Safer Recruitment policy would be a suitable place. This does not rule out using other documentation instead.
129. The state sector requirement that one person on every recruitment panel should have received ‘Safer recruitment’ training is not a legal requirement for independent schools. However, inspectors may advise that it is recommended that schools ensure that sufficient relevant staff are trained in safer recruitment processes.
130. Inspectors should note that if a school does not check for prohibition or barring of relevant people, but checks are carried out during the inspection and it is ascertained that no person is deployed in work from which they are barred or prohibited, Part 4 will be passed (‘no such person is barred ...’ etc) but the failure to check is reported under paragraph 7 as a failure to have regard to *KCSIE*, which required active checking. If a barred/prohibited person is wrongfully deployed, both paragraph 7 and the relevant section of Part 4 is failed.

Management of safeguarding

131. The school is required to name an individual from the leadership team as the designated safeguarding lead (DSL) to take lead responsibility for safeguarding and child protection matters. The DSL’s responsibility is to maintain an overview of safeguarding within the school, to open channels of communication with local statutory agencies, support staff in carrying out their safeguarding duties and to monitor the effectiveness of policies and procedures in practice. The senior role can be exercised in conjunction with other designated safeguarding staff within the school, but it must be clear who is the main DSL. Safeguarding procedures should also identify an alternative person to whom reports should be made in the absence of the designated person in order that there is the required cover for the role at all times. Schools that have separate sites or separate management lines, may wish to consider having a designated person for each section.
132. The job descriptions of the DSL and the DDSLs should include the key activities of the role. (Previously this was only specified for the DSL). It is now clear that on-line safety in school must also come under the responsibility of the DSL.
133. In proprietorial schools, DSLs must be someone who can discharge the role with sufficient independence, particularly if an allegation were to be made against a family member. *KCSIE* advises that ‘this may involve including in the appointment as DSL, written confirmation that part of the duties include contacting the LADO on any matter that the DSL considers cannot be dealt with properly internally’. Inspectors may also wish to check whether consideration has been given, as directed in *KCSIE*, to providing the DSL with access to external advice.
134. The school should ensure that the DSL has sufficient time, funding, supervision and support to fulfil his or her child welfare and safeguarding responsibilities effectively. As a matter of good practice, all professionals working with children should have regular reviews of their own practice and opportunities to discuss any concerns they may have about welfare and safeguarding matters. This should include the personal and professional duty to report welfare and safeguarding concerns to the DSL, or in the absence of action, directly to local children’s services.
135. When a child moves school, in addition to handing over any child protection file securely, *KCSIE 2018* encourages DSLs to share information proactively with the new school to enable the new school to have support in place when a child arrives and to ensure that key staff, such as the SENCO, are aware of any needs.

Training

136. The policy must set out the school’s arrangements for the training required as below.

- All staff must read at least Part One of *KCSIE*. This applies not only to new staff but also to those already in post in April 2014 when *KCSIE* was first introduced. Each time Part One of *KCSIE* is updated by the DfE, existing staff must be updated. This is particularly important when new duties are introduced, as with the introduction of *Prevent* in July 2015, or the recognition of additional types of abuse, as in September 2016. The methodology for ensuring existing staff read Part One of *KCSIE* is not prescribed. All effective means are acceptable (such as, electronic or hard copy distribution and acknowledgement). Schools should take steps to ensure that staff **understand** key information. This could be of particular relevance to staff who cannot read English.
- From September 2016, in addition to Part One of *KCSIE*, school leaders and staff who work directly with children must read Annex A of *KCSIE*. It is a matter for schools to decide who is classed as working directly with children and if they would benefit from the additional information. The role of inspectors here is to probe whether schools have acted reasonably in their decisions.
- The DSL should receive updated child protection training at least every two years. This will include local inter-agency working protocols and training in the LSCB’s/safeguarding partners’ approach to *Prevent* duties.
- Additional designated safeguarding staff should be trained to the same level as the DSL.
- All staff must be trained in child protection regularly, in line with advice from the LSCB/safeguarding partners. *Prevent* awareness training will be part of this. Staff training should include on-line safety.
- The two-yearly training for DSLs and regular formal training for staff should be supplemented with informal updates, for example, e-bulletins and staff meetings. These should be as required but at least annually.
- All new staff must be provided with induction training that includes:
 - * the school’s child protection policy, including information about the identity and role of the DSL and any deputies;
 - * the staff code of conduct/behaviour policy including the whistleblowing procedure and the acceptable use of technologies policy, if separate (see above for more about the staff code);
 - the pupil behaviour policy;
 - * the school’s safeguarding response to children who go missing from education (children missing education policy to be provided);
 - on-line safety;
 - * a copy of Part 1 of *KCSIE* (and, in effect, Annex A also, for those who work directly with children, see above).
- Copies of the above documents marked with an asterisk * should be provided to all ‘staff’ during induction. Schools should take a risk-based approach to the level of information that is provided to temporary staff and volunteers. *KCSIE* does not specify the means by which documentation is to be provided. Schools, therefore, have discretion as to how they provide it, whether by provision of a link, electronically or on paper.

Staff Induction – these are not intended to be exhaustive lists.

Explain (KCSIE paragraphs 13 and 77)	Provide (KCSIE paragraphs 57/58)
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Safeguarding policy	Safeguarding policy
Role of DSL (including identity of DSL and deputies) –contained in safeguarding policy	Role of DSL and DDSLs
Staff behaviour policy	Staff behaviour policy
Pupil behaviour policy	
The school’s safeguarding response to children missing education	Children missing education policy
On-line safety	

137. The new Part 5 of *KCSIE*, dedicated to peer-on-peer abuse, specifies that all staff should be trained to manage a report of peer-on-peer sexual violence and sexual harassment. Detail is provided, largely in line with traditional guidance on how to receive a disclosure (don’t promise confidentiality, listen, be non-judgemental, don’t lead, take notes, report to DSL etc) but with the added guidance that staff should not view or forward illegal images of a child. On this point, schools may be directed to the DfE guidance on [Searching, Screening and Confiscation](#) and the [UKCCIS sexting advice](#).
138. The required training content for the DSL is set out in Annex B of *KCSIE* and covers inter-agency working, participation in child protection case conferences, supporting children in need, identifying children at risk of radicalisation, record keeping and promoting a culture of listening to children.
139. As the lead safeguarding professional in school, it is envisaged that as local authorities develop their services to support the *Prevent* strategy, the DSL will have higher-level training in the *Prevent* strategy of the LSCB/safeguarding partners to be able to assess the risk of children being drawn into terrorism, including being drawn into support for the extremist ideas that are part of terrorist ideology. This will be based on an understanding shared with local partners of the potential risk in the local area. If there is difficulty accessing local training in the short term, while local partners are building capacity to deliver training, schools can demonstrate their commitment to the *Prevent* strategy by ensuring that, as a minimum, the DSL has accessed *Prevent* awareness training, such as the on-line general awareness training module on Channel promoted in the [non-statutory advice](#), and is able to provide advice and support to other members of staff on protecting children from radicalisation.
140. There is no longer a set frequency for staff refresher training. Schools will need to demonstrate that they consult with their LSCB/safeguarding partners to determine the most appropriate schedule or follow their published advice, if any, level and focus for training. There are also no national standards for staff training and so inspectors will use their judgement, based on evidence from records and interviews, to assess whether the training provided by the school has been sufficient and frequent enough to equip staff to follow the school’s procedures and to raise concerns appropriately. The *Prevent* strategy requires that schools ensure that all staff have training that gives them knowledge and confidence to identify children at risk of being drawn into terrorism, to challenge extremist ideas and to know how to refer children and young people for further help. Again, the Channel on-line general awareness training, mentioned above, is suitable and will be helpful for schools which have difficulty accessing local training. Additionally, while online safety and radicalisation will be relevant in safeguarding measures to all schools, the context of schools within their communities will also be a factor in determining the level and focus for training and responsiveness to factors such as child sexual exploitation, female genital mutilation, so-called honour-based violence, forced marriage, cyberbullying, and mental health.
141. It is good practice for the staff of contractors working regularly in school with opportunity for contact with pupils to have basic safeguarding training at a level appropriate to their role but this is not a direct

regulatory requirement under *KCSIE*. As a matter of good practice, inspectors would expect regular contractor staff to know the identity of the DSL, for example, and the duty to pass on concerns (through their line manager or direct) and adhere to appropriate behavioural boundaries.

Oversight of safeguarding, including arrangements for reviewing policies and procedures

142. Creation of the culture of safety referenced above is relevant to every part of each school but starts at the top.

143. A ‘board-level lead’ should be designated to take a lead in relation to responsibility for the safeguarding arrangements. Schools should appoint a member of the proprietorial body to take this role but should bear in mind that the safeguarding duties remain the responsibility of the proprietorial body as a whole. *WT 2018* specifies that the board-level lead should have the required knowledge, skills and expertise or be sufficiently qualified and experienced to take leadership responsibility for the organisation’s safeguarding arrangements.

144. *WT* is clear that employers (ie proprietors/proprietorial bodies in a school context) are responsible for:

- ensuring staff are competent to carry out their responsibilities for safeguarding and promoting the welfare of children;
- creating an environment where staff feel supported in their safeguarding role and able to raise concerns;
- ensuring ‘practitioners’ (such as those who work directly with children) have regular reviews of their own practice so that they have knowledge, skills and experience which improve over time.

Classically this would entail a programme of relevant INSET training and a process for performance management, but it is presented in *WT* in terms that allow for local discretion. Inspectors may be open to all approaches that achieve the outcome of competent, knowledgeable, skilled, reflective, improving staff.

145. *WT 2018* notes that safe recruitment practices must be supplemented by ongoing safe working practices for those who work with children. No further specification is provided. *WT* does not specify that these must be written (apart from the staff behaviour code required by *KCSIE*) and inspectors must, therefore, allow for a variety of approaches but may expect to see safe working practices embedded in the culture of the school and may challenge any poor practice noted. For schools which need support to develop safer working practices, the school’s own LSCB/safeguarding partners may be a source of good advice, or inspectors could direct schools to other sources such as the NSPCC or the guidance produced by the [Safer Recruitment Consortium](#).

146. A review of the school’s child protection policies must take place at least annually, including an update and review of the effectiveness of procedures and their implementation. Proprietors should also ensure that the school contributes to inter-agency working in line with *WT* through effective communication and good co-operation with local agencies. *KCSIE* indicates that the proprietor should draw on the expertise of staff, including the DSL, in shaping the safeguarding arrangements and policies. *KCSIE* is now intentionally silent about the means for the review and the mechanism for the review; these are matters for the proprietorial body to decide.

147. The implementation of the policy provisions will be checked through discussion with proprietors and DSL, and by scrutiny of available evidence underpinning the review (eg any written report or information to support the review, minutes of meetings, training records, referral information in respect of requests for help and support for individual children, issues and themes which may have emerged in the school and how these have been handled, contribution the school is making to multi-agency working in individual cases or local discussions on safeguarding matters).

148. If there has been a substantiated allegation against a member of staff, the school should work with the LADO to determine whether there are any improvements to be made to the school’s procedures or practice to help prevent similar events in the future.

The school's arrangements to fulfil other safeguarding responsibilities

149. Information on the points below may be included in the relevant section of the policy or be included separately.

Teaching children how to keep safe

150. Proprietors should ensure children are taught about safeguarding, including online, through the curriculum and PSHE. Particular attention should be paid to school practices to help children to adjust their behaviours in order to reduce risks and build resilience, including to radicalisation, with particular attention to the safe use of electronic equipment and the internet. Where possible, these practices should be age appropriate and delivered through a planned component of the curriculum. Children should understand the risks posed by adults or young people, who use the internet and social media to bully, groom, abuse or radicalise other people, especially children, young people and vulnerable adults. Internet safety will usually be integral to the school's ICT curriculum and can also be embedded in PSHE and sex and relationships education (SRE). The latest resources promoted by DfE can be found at:

- [The use of social media for on-line radicalisation](#)
- The UK Safer Internet Centre (<https://www.saferinternet.org.uk/about>)
- CEOP's Thinkuknow website (www.thinkuknow.co.uk)

Looked after children

151. Proprietors should also ensure that staff have the skills, knowledge and understanding necessary to keep safe children who are looked after by a local authority, if they have such children on roll. This would include ensuring that a designated member of staff has responsibility for their welfare and progress and has up-to-date assessment information from the relevant local authority, the most recent care plan and contact arrangements with parents, and delegated authority to carers.

152. Schools with looked after children on roll will want to be aware of the statutory guidance to local authorities about how they are to support schools with the care and education of these pupils: [Promoting the education of looked after and previously looked-after children](#).

Specialist settings

153. Specialist settings such as performing arts or music specialist schools should also include details of the additional measures taken to safeguard pupils, for example in one-to-one or off-site tuition and performances away from the school. The NSPCC has produced [helpful guidance](#) about safeguarding in the performing arts.

Childcare

154. Schools providing early and later years childcare should consider including a section in their safeguarding policy about disqualification from working in childcare, including disqualification. While covering the issue in the safeguarding policy is optional, it will be important to cover it in the recruitment procedure where relevant. See below note 163 for more information.

FURTHER GUIDANCE

155. When considering their provision for children in need of additional support, schools may wish to be aware of the most recent DfE advice and information which dovetails with *WT* and the *SEND Code 2015*. These are non-statutory documents meaning that schools are not required to have regard to them:

- [Mental health and behaviour in schools: departmental advice](#)
- [Counselling in schools: a blue print for the future \(February 2016\)](#)

IMPLEMENTATION

156. Safeguarding is inspected in a methodical way ensuring that each piece of guidance from *KCSIE* and *WT* is followed appropriately and that this can be evidenced. However, inspectors must also be alert to the overall **culture of the school**. *WT 2018* specifies that each organisation is responsible for **creating a culture of safety, equality and protection**. This guidance builds on pre-existing guidance about the need for a **culture of listening to children and a culture that enables issues about safeguarding and child welfare to be addressed**. For the standard to be met, both the systems in place, including the policy, and the culture must be right. Inspectors with concerns about the safeguarding culture in a school must take the same evidential approach to other requirements, documenting any issues carefully in the Record of Evidence and referring to the duty team for support.
157. During the inspection, effective implementation of the safeguarding policy will be checked through responses of parents, staff and pupils to questionnaires, interviews with pupils and staff and scrutiny of records and documentation. *KCSIE* is clear that schools should keep records of concerns, discussions, decisions and reasons for decisions and should share information readily with relevant agencies. Inspectors will have been provided with any relevant information available to ISI in advance of the inspection, including anonymised DBS/TRA referrals and DfE staff census information. Any concerns raised in relation to safeguarding, whatever the source, must be followed up by inspectors.
158. Particular attention should be given by inspectors to the arrangements within the school to ‘listen’ to children including the use of counsellors/listeners, use of helplines and other systems to gain views and insight. Schools being inspected will be asked to ensure pupils know that they may contact inspectors directly.
159. *KCSIE* requires schools to ensure that appropriate filters and monitoring systems are in place to safeguard children from potentially harmful and inappropriate material on-line, but without an unreasonable level of blocking. *KCSIE* guides schools to ‘consider a whole-school approach to on-line safety’, including a ‘clear policy on the use of mobile technology’. They are also requested in *KCSIE* to ‘consider carefully’ how to manage 3G and 4G accessibility on the school’s premises. The appropriateness of any filters and monitoring are a matter for individual schools and will be informed in part by the risk assessment required by the *Prevent* duty.
160. The UK Safer Internet Centre has published guidance as to what ‘appropriate’ might look like: [UK Safer Internet Centre: appropriate filtering and monitoring](#). Guidance on e-security is available from the [National Education Network](#) (NEN).
161. Measures taken should be proportionate to the risks in the particular school context. Inspectors may follow-up whether appropriate filters are in place and explore whether a school has given consideration to a whole-school approach (without pre-judging the outcome of such a consideration), has a strategy in relation to 3G and 4G accessibility, and include behaviour management arrangements to supplement IT-led approaches if necessary.
162. In relation to *Prevent*, for compliance purposes, inspectors should consider whether schools can ‘demonstrate activity’, as required by the statutory guidance, in the following key areas: risk assessment, working in partnership, staff training and IT policies. RIs should check that schools have arrangements to respond to pupils who may be targeted or influenced to participate in radicalism or extremism. Inspectors will, therefore, also consider IT arrangements and policies in the context of safeguarding. The *Prevent* guidance expects schools to ensure that children are safe from terrorist and extremist material when accessing the internet through school systems and to establish appropriate levels of filtering. No further technical guidance is prescribed by the DfE concerning the levels of filtering which are to be considered appropriate. This means that schools have discretion as to how they approach this aspect of the *Prevent* duty. Inspectors will assess and challenge on the basis of whether what is in place appears effective in practice to ensure that children are safe from terrorist and extremist material when accessing the internet in school.

EYFS → Child protection, Note E23
Boarding → NMS 11 Child protection, Note B75

Disqualification under the Childcare Act 2006

163. *KCSIE* incorporates the statutory guidance, [Disqualification under the Childcare Act 2006](#), making the latter another document to which schools must have regard under paragraphs 7(a) and (b). It relates to staff working in the early years and those involved in childcare for children under the age of eight in before- and after-school settings. It concerns how people can be disqualified under the Childcare Act 2006, explains the changes made by the Childcare (Disqualification) and Childcare (Early Years Provision Free of Charge)(Extended Entitlement)(Amendment)Regulations 2018.
164. The key requirement on schools is that they must not knowingly employ people to work in childcare or allow them to be directly concerned in its management, if they themselves are directly ‘disqualified’ from childcare.
165. From September 2018, schools are no longer required also to establish whether a member of staff providing, or employed to work in, childcare is disqualified ‘by association’. The ‘by association’ provisions now only apply to childcare in domestic settings (ie childminders).
166. Accordingly, it is no longer necessary for schools to ask their staff questions about cautions or convictions of those living or working in their household, and for data protection reasons they should no longer do so. Inspectors may advise schools to review and update their staffing policies and safer recruitment procedures, and that it is no longer necessary for them to hold ‘by association’ information previously gathered, but these are not a compliance issues for ISI inspection purposes.
167. Early years childcare means education, care (excepting health care) and any supervised activity for a child from birth until 1 September following their fifth birthday. It applies to all early years provision during school hours, including in school nursery and reception classes, after-school clubs and wrap-around childcare.
168. Later years childcare means childcare (but not education, health care or co-curricular activities) for children under the age of 8. For children who are older than ‘early years’ but under the age of 8, the normal school day, after-school co-curricular educational clubs and health care are, therefore, not within scope of the regulations. This essentially means that only wrap-around childcare (crèche-like facilities before and after school) and holiday care constitutes later years childcare. For the avoidance of doubt, this includes boarding care for children under the age of 8 who board.

	Pre-school childcare	School hours	After-school activities	After-school childcare	Health care
Early years : 0 to Sept after age 5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
Later years: Sept after age 5s to 7s (inclusive)	<input type="checkbox"/>	X	X	<input type="checkbox"/>	X

169. The guidance does not only apply to employees, although the word ‘employ’ is used in the regulations. Boarding staff who provide childcare for boarders under the age of 8 and those concerned with the management of boarding care for these children are also in scope. Others such as volunteers,

supply/agency staff, self-employed people, staff of other organisations contracted to provide childcare, governors who volunteer with the relevant groups or are directly concerned with their day-to-day management, are also potentially within the scope of the guidance. By contrast, those who are not involved in childcare are not within the remit of these regulations, for example, cleaners and kitchen staff.

170. In brief, where people are within the scope of the guidance, schools must either check whether they are disqualified from childcare or ensure that others have done so (eg their own employer or training provider). Inspectors may seek evidence that schools have done so.
171. The grounds for disqualification include, in summary:
- being on the DBS Children’s Barred List;
 - being cautioned for, convicted of or charged with certain violent and sexual criminal offences against children and adults, at home or abroad;
 - any offence involving death or injury to a child (even if not specifically listed in guidance);
 - being the subject of certain other orders relating to the care of children;
 - refusal or cancellation of registration relating to childcare or children’s homes or being prohibited from private fostering;
 - living in the same household where another person who is disqualified lives or works.
172. Disqualification occurs as soon as the above criteria are met, for example, as soon as a caution or conviction occurs, even before the person is formally included on the children’s barred list.

IMPLEMENTATION

173. In summary, in order to fulfil their duty to have regard to the guidance, schools must:
- inform relevant people of the legislation and keep a record of the date the information was provided;
 - keep records, either on the Single Central Register (optional) or elsewhere, of staff employed to work in or manage relevant childcare and including the date disqualification checks were completed (eg declaration made).
174. Following removal of the ‘by association’ aspect to disqualification, the guidance stresses the importance of:
- following the safer recruitment processes of KCSIE fully;
 - ensuring policies are clear about the expectations they place on staff, including where their relationships and associations both within and outside of the workplace (including online) may have implications for the safeguarding of children in school;
 - creating a culture and environment where staff feel comfortable, if appropriate, ‘to discuss matters outside of work, which may have implications for the safeguarding of children in the workplace. These discussions can help schools safeguard their employees’ welfare and contribute to their duty of care towards their staff. Where appropriate, it will help schools identify whether arrangements are needed to support these staff. These discussions can also help schools manage children’s safety’.
175. By definition, a person who is disqualified cannot lawfully do the work from which they are disqualified. If a person is found to be disqualified or if there is any doubt then, pending resolution, they must be removed from the work from which they are or may be disqualified. There is no requirement automatically to suspend or dismiss all individuals found to be disqualified; there is scope in principle

to redeploy them with other age groups or in other work from which they are not disqualified, subject to assessing the risks and taking advice from the LADO when appropriate.

176. Schools must inform Ofsted (not ISI, although ISI can be copied in) where they are satisfied that a person working in a relevant setting falls within one of the disqualification criteria. Staff who are disqualified may apply to Ofsted for a waiver of disqualification, unless they are barred from working with children.
177. The precise steps which schools must take to disseminate and gather the required information are not prescribed. Schools are free to decide how they do so, and inspectors have discretion to recognise any methods which are effective in reaching all relevant staff. Schools could vary their approach for existing staff and incoming staff.
178. In deciding what measures to take, schools should bear in mind that the measures must result in a recordable date or dates when disqualification checks were completed for individuals. This could include dates of meetings, contracts, emails, individual letters etc. On inspection, the onus will be on schools to demonstrate that the information they disseminated reached all relevant staff.
179. Where schools decide to use a self-declaration, they should confine questions to the requirements of the childcare disqualification legislation, eg cautions and convictions for a relevant offence, set out in the annexes to the guidance. In line with GDPR, the 2018 guidance advises that schools may only hold personal data (including criminal record information) by consent. **In the absence of consent from the individual, it is sufficient for inspection purposes for the school to retain only the date the check was completed (eg declaration made), details of any safeguarding restrictions imposed by the school or others, and whether or not an Ofsted waiver has been granted.**
180. Schools should remind staff regularly of their duties to disclose the relevant information. The DfE has written that they do not prescribe the approach to reminders, 'but an annual check would seem a sensible measure'.
181. Considerable further technical detail is contained in the guidance.

Paragraph 8 – Safeguarding of boarders

Where section 87(1) of the Children Act 1989 applies in relation to a school the standard in this paragraph is met if the proprietor ensures that—

- (a) arrangements are made to safeguard and promote the welfare of boarders while they are accommodated at the school; and
- (b) such arrangements have regard to the National Minimum Standards for Boarding Schools or, where applicable, the National Minimum Standards for Residential Special Schools or the National Minimum Standards for Accommodation of Children under Eighteen by Further Education Colleges.

182. This standard effectively makes the NMS for Boarding Schools part of the Independent School Standards so that, if a school to which the NMS apply does not meet one of the NMS, this is also a failure to meet one or more of the Independent School Standards and the DfE can take regulatory action. The NMS refers to the same guidance as that which applies to day schools, but there are now additional issues for boarding schools to consider.
183. The *National Minimum Standards for Accommodation of Students under Eighteen by Further Education Colleges* no longer apply to schools, despite the wording of the paragraph 8.1, because schools which provide accommodation, including those where all boarders are 16 and over, are now inspected under the NMS for boarding schools due to a regulatory change.

Boarding → NMS 11 Child protection, Note B75

Paragraph 9 – Behaviour

The standard in this paragraph is met if the proprietor promotes good behaviour amongst pupils by ensuring that –

- (a) a written behaviour policy is drawn up that, amongst other matters, sets out the sanctions to be adopted in the event of pupils’ misbehaviour;
- (b) the policy is implemented effectively; and
- (c) a record is kept of the sanctions imposed upon pupils for serious misbehaviour.

184. This regulation does not require schools to have regard to any particular guidance document and schools are able to develop their own policies so long as the policy content meets the regulatory requirements (see below).

BEHAVIOUR AND SANCTIONS POLICY CONTENT

185. The written policy must include details of:

- how the school promotes good behaviour amongst pupils;
- the sanctions to be adopted in the event of pupil misbehaviour.

FURTHER GUIDANCE

186. Non-statutory advice [Behaviour and Discipline in schools \(2016\)](#) may be useful to schools when developing their policy. Schools cannot be found to be non-compliant if the policy does not follow this advice in all respects, but the following items from the non-statutory advice are suggested as indicative content in relation to the above statutory headings. In addition to setting out rewards and sanctions, behaviour strategy and the teaching of good behaviour, the following points could also be included:

- duties under the Equality Act 2010, including issues related to pupils with special educational needs/disabilities and how reasonable adjustments are made for these pupils;
- support systems for pupils;
- liaison with parents and other agencies;
- managing pupils’ transition;
- disciplinary action against pupils who are found to have made malicious accusations against staff.

187. Schools must have a register of sanctions imposed for serious misbehaviour, even if it has no entries. The nature of the record is not prescribed, but schools should be encouraged to include as the basic entry the pupil's name and year group, the nature and date of the offence, and the sanction imposed and to centralise the record, so that patterns can be identified by the school and also by inspectors.

188. The school may make its own definition of ‘serious misbehaviour’, and they might, for example, include exclusions, major detentions and disciplinary meetings involving parents.

IMPLEMENTATION

189. During the inspection, the effective implementation of the policy will be checked through direct observation of behaviour in the school, responses of parents and pupils to questionnaires, interviews with pupils and staff, and scrutiny of records and documentation to confirm adherence to policy and correspondence with any known events already reported. Inspectors will consider classroom management, staff development and support, and leadership oversight of behaviour issues.

EYFS → Managing behaviour, Note E61
Boarding → NMS12, Note B79; NMS 13, Note B87; NMS Appendix 2, Note B148

Paragraph 10 – Bullying

The standard in this paragraph is met if the proprietor ensures that bullying at the school is prevented in so far as reasonably practicable, by the drawing up and implementation of an effective anti-bullying strategy.

190. This standard was reworded by the DfE in 2015 to focus attention on the outcome that bullying is prevented in so far as reasonably practicable, as well as schools having an effective strategy in place which is properly implemented in practice. Inspectors will seek evidence from schools that demonstrates effective implementation.

191. This regulation does not require schools to have regard to any particular guidance document, and schools are able to develop their own approach. Any policy should be short, succinct and written in accessible language.

FURTHER GUIDANCE

192. Non-statutory DfE advice [Preventing and Tackling Bullying \(July 2017\)](#) and [Cyberbullying: Advice for headteachers and school staff \(2014\)](#) may be useful to schools when developing their strategy. Supplementary [advice](#) for parents about tackling online bullying is also available. The main points in the DfE advice are listed below and are taken as indicative strategy content for inspection purposes. The non-statutory document *Cyberbullying: Advice for headteachers and school staff (2014)* advises that schools should also have policies in place that address acceptable use of technologies and suggests content. As these documents are non-statutory, the absence of particular elements does not of itself mean that a strategy fails to meet this standard but, if any item is of particular relevance to a school, the omission might indicate, for example, that the policy is not effective in context.

193. The purpose of the list below is to ensure common criteria are applied across inspections. Having ascertained how far the non-statutory particulars advised below are included in a strategy, inspectors evaluate whether the strategy is potentially effective. Indicative content for an effective anti-bullying strategy:

- a working definition of bullying, such as that it may be repeated over time and intentionally hurts another pupil or group physically or emotionally and is often motivated by prejudice against particular groups, for example, on grounds of race, religion, culture, sex, gender, homophobia, special educational needs and disability, or because a child is adopted or is a carer – it may occur directly or through cyber-technology (social websites, mobile phones, text messages, photographs and email);
- the seriousness of bullying, both physical and emotional (which may cause psychological damage);
- procedures to follow – so that it is easy to report bullying, including cyber-bullying and bullying outside school, the threshold for reporting a bullying issue to external agencies (such as police/children’s social care) is known, and records are kept to evaluate the effectiveness of the approach adopted or to enable patterns to be identified; note, a bullying incident should be treated as a child protection concern when there is reasonable cause to believe that a child is suffering or likely to suffer significant harm;
- raising awareness of staff through training, so that the principles of the school policy are understood, legal responsibilities are known, action is defined to resolve and prevent problems,

and sources of support are available; where appropriate, schools can invest in specialised skills to understand the needs of their pupils, including those with special educational needs or disabilities, and lesbian, gay, bisexual and transgender (LGBT) pupils;

- using educational elements such as personal, social, health and economic education (PSHE), assemblies, projects, drama, stories, literature, with discussion of differences between people and the importance of avoiding prejudice-based language;
- implementing disciplinary sanctions which reflect the seriousness of an incident and convey a deterrent effect (strong sanctions such as exclusion may be necessary in cases of severe and persistent bullying);
- having clear policies communicated to parents, pupils and staff, and creating an environment of good behaviour and respect, with helpful examples set by staff and older pupils and celebration of success;
- involving parents and making sure pupils are clear about the part they can play to prevent bullying, including when they find themselves as bystanders.

194. It is not a requirement to have a separate cyber-bullying policy, but with increasing availability to children of electronic devices that give unrestricted access to the internet, schools should consider online safety as part of both safeguarding and anti-bullying arrangements. Active management of hardware, software and connectivity and the vigilance of teachers and parents have a part to play in the safeguarding and protection of pupils.

195. Pupils will often have access to technologies that have both positive and negative potential. Consideration should be given to the acceptable use of technology within the school setting and beyond, with a policy that is clear, understood and respected by staff, pupils and the wider school community. Whilst each school's perspective and practice will vary, the policy should ensure the school's expectations and safeguarding obligations are communicated and effective. A policy should include guidance on:

- clearly defined roles and responsibilities for online safety as part of the school's wider safeguarding strategy and how this links with other safeguarding policy;
- clear guidance on the use of technology in the classroom and beyond for all users, including staff, pupils and visitors that references permissions/restrictions and agreed sanctions;
- mention of the school's technical provision/infrastructure and safeguards in place to filter and monitor inappropriate content and alert the school to safeguarding issues; (schools are not required to give away detail in policies which would compromise safeguards);
- how the school builds resilience in its pupils to protect themselves and their peers through education and information;
- staff safeguarding professional development that includes online safety;
- reporting mechanisms available for all users to report issues and concerns to the school and how they are managed and/or escalated;
- how the school informs, communicates with and educates parents/carers in online safety;
- the management of personal data in line with statutory requirements.

IMPLEMENTATION

196. During the inspection, the effective implementation of the strategy, including in relation to cyber-bullying and mobile phones, will be checked through direct observation around the school, responses of parents and pupils to questionnaires, interviews with pupils and staff, and scrutiny of records and documentation. It is not uncommon to find that routine interviews with staff and pupils do not provide

evidence that corroborates negative views previously expressed in parents' and/or pupils' confidential questionnaires or other sources of evidence and so interviews alone cannot be relied upon but instead form one element of considered evidence. Records of bullying may be usefully centralised, but they may also be dispersed, for example, among different houses. **A school cannot be considered to meet its duty of care towards its pupils if it does not readily have a clear picture of bullying incidents throughout the school, whatever system has been chosen to record concerns.** It is also important to consider how well the school is ensuring that the impact of bullying on individual children is being monitored to ensure that a holistic picture is maintained between different aspects of school provision such as teaching, boarding and health care.

Boarding → NMS 12 - Promoting Positive Behaviour and Relationships, Note B79

Paragraph 11 – Health and safety

The standard in this paragraph is met if the proprietor ensures that relevant health and safety laws are complied with by the drawing up and effective implementation of a written health and safety policy.

197. The primary regulator for health and safety is the Health and Safety Executive (HSE). This standard provides the DfE also with the right to take regulatory action when necessary. ISI inspects this standard as non-experts, the main focus usually being to see that appropriate adequate systems appear to be in place and that on site there are no obvious deficiencies or hazards in practice. Inspectors should avoid giving detailed guidance or advice on health and safety matters. If a more in-depth inspection of this standard were to be commissioned by the DfE, additional information about 'relevant health and safety laws' would be available to inspectors from the ISI office.
198. This standard focuses on the outcome that relevant health and safety laws are complied with, in addition to having the right policies in place. Non-statutory advice, [Health and Safety Advice on Legal Duties and Powers \(2014\)](#) is available on the DfE website. The regulation requires a written policy but does not require schools to have regard to any particular advice document. However, the DfE advice does summarise the 'relevant health and safety laws' referred to in the regulations. From January 2015, a written risk assessment policy is required. Further details are provided in note 246 onwards.

FURTHER GUIDANCE

199. The main legislation covering this area is the Health and Safety at Work etc Act 1974 and regulations made under that Act. The employer (the proprietor) is responsible for health and safety, though tasks may be delegated to staff. Employees also have a duty to look after their own and others' health and safety. Employers, school staff and others also have a duty under the common law to take care of pupils in the same way that a prudent parent would do so. The HSE encourages a proportionate, common sense approach and provides useful advice on striking the right balance in schools on health and safety matters: [Sensible health and safety management in schools](#).
200. The DfE advice suggests that a policy covers the following core areas:
- a general statement of policy;
 - who is responsible to do what (delegation of tasks);
 - arrangements to monitor, establish and review measures needed to meet satisfactory health and safety standards.
201. Inspectors must exercise professional judgement in assessing the adequacy of the school's documentation and provide general advice as necessary to help schools in being vigilant about the welfare of pupils. In addition, the DfE advice states that schools may wish to include any of the following in their health and safety policy and associated risk assessment:

- training of staff in health and safety, including risk assessment;
- consultation arrangements with employees;
- recording and reporting accidents to staff, pupils and visitors – including those reportable under [RIDDOR](#);
- policy and procedures for off-site visits, including residential visits and any school-led adventure activities;
- dealing with health and safety emergencies – procedures and contacts;
- first aid and supporting medical needs (may refer to first aid policy);
- occupational health services and managing work-related stress;
- workplace safety for staff, pupils and visitors;
- school security;
- violence to staff (may cross-refer to behaviour policy);
- manual handling;
- slips and trips;
- on-site vehicle movements;
- management of asbestos;
- control of hazardous substances, including use and storage of chemicals;
- work at height;
- selecting and managing contractors;
- maintenance (and, where necessary examination and testing) of plant and equipment (such as electrical equipment, local exhaust ventilation, pressure systems, gas appliances, lifting equipment and glazing safety);
- fire safety, including testing of alarms and evacuation procedures (may refer to fire documentation).

202. Procedures for educational visits should be covered in health and safety documentation (whether the main health and safety policy or a separate policy) in a way that is proportionate, meaningful and appropriate to the nature of the trips and risks of the particular school. The DfE advice seeks to make it easier for schools to take pupils on trips, removing the necessity for some paperwork and taking steps to reduce teachers' fears of legal action by stating that it is rare for teachers to be prosecuted under criminal law with regard to accidents involving children. There is no requirement to have an Educational Visits Coordinator (EVC), although there should be a clear process for approving visits. Inspectors may advise schools to be mindful of any requirements set by their insurers when planning educational visits.

203. A written risk assessment is not required for every visit, and schools should make the decision about when to carry out a risk assessment and when to commit a risk assessment to writing. However, where a risk assessment is carried out, the employer must record the significant findings of the assessment. A risk assessment is not needed every time a school takes pupils to a local venue such as a swimming pool, a park or a museum. Circumstances when a written visit risk assessment is appropriate would include when activities need a higher level of risk management than is normal during routine activities; for example, high-risk activities such as mountaineering, canoeing, sailing and residential visits. Trips abroad also need careful attention to duties under health and safety.

204. Written consent from parents is not required for pupils to take part in the majority of off-site activities organised by the school if these take place during school hours and are a normal part of the child's

education at the school. However, parents should be told where their child will be when not on school premises and of any extra safety measures required. This can be via a specific communication, or a more general termly calendar or similar. Written individual consent is usually only requested for activities that need a higher level of risk management, those that take place outside school hours or high-risk activities and residential visits. A ‘one-off’ blanket consent form may be used for parents to sign when their child enrolls at the school, but it is for the school to decide on how parental consent is to be sought. Even if blanket consent is relied on, the DfE advises that parents should be told of each visit and of any extra safety measures required and given the opportunity to withdraw their child from any particular visit or activity. This is likely to be a proportionate and appropriate control measure.

205. When planning an activity involving caving, climbing, trekking, skiing or water sports (other than rowing), schools must currently check that the provider holds a licence as required by the Adventure Activities Licensing Regulations 2004 (for England, Scotland and Wales). Two additional pieces of guidance have been published about health and safety issues. DfE have provided [guidance on the requirements for driving minibuses](#), replacing the section previously located within the general health and safety guidance. Compliance with correct licensing for minibuses and drivers, when applicable, is considered part of ‘relevant health and safety laws’ for the purposes of Health and Safety standard. The [requirements in relation to work experience](#) have also been clarified by the HSE.
206. The DfE has produced non-statutory advice for schools about the management of asbestos: [Managing asbestos in schools](#) (2015).

IMPLEMENTATION

207. Inspectors should ask to see monitoring records, including any reports by competent persons, and any enforcement letters or notices.
208. During the inspection, the effective implementation of the policy is also checked through direct observation around the school (with vigilance in relation to activities carried out, lessons being taught, and matters such as access and safety in workshops, studios and labs, storage of chemicals, ponds and swimming pools, electrical safety and hygiene), parent, staff and pupil questionnaires, interviews with pupils and staff, and scrutiny of records and documentation.
209. If inspectors think they may have found hazardous conditions in the school’s accommodation or other shortcomings in the school’s provision for the welfare, health or safety of the pupils, they must make a collective decision whether the matter (a) is material, either because in context it is a serious issue alone or because it evidences a lax culture or approach in relation to health and safety and must be reported because one or more of the regulations have not been met, or (b) is not material, such as an isolated incident that has been easily and quickly remedied, and so need not be included in the written report. If inspectors identify conditions that are of immediate risk to children, then they must contact the ISI office for advice without delay.

OTHER INFORMATION

210. Workshops and labs should be obviously safe: for example, with adequate ventilation and dust/fume extraction, a clearly labelled main switch lockable in the ‘off’ position. In workshops, it is recommended that there is a general emergency switching system with push buttons (preferably red on yellow) and a well-positioned emergency cut-out for each fixed machine (could be the normal ‘off’ switch, but an additional switch, sometimes foot/knee operated, is often recommended). Helpful [advice on safety in design and technology](#) is contained in British Standard 4163: 2014, available from the British Standards Institute.
211. It is a legal requirement to ensure that any electrical equipment which has potential to cause injury is maintained in a safe condition. The relevant regulations do not specify what needs to be done, by whom and how frequently. Inspectors may advise that [Portable Appliance Testing \(PAT\)](#) is good practice but should recognise that it is not a statutory requirement in those terms. The HSE has produced [FAQs](#)

[about PAT](#). The presence of unsafe electrical equipment may be reported, where applicable, in terms of failure to maintain electrical equipment in a safe condition, rather than failure to conduct PAT.

212. Except in relation to the Early Years Foundation Stage requirements, it is not the duty of ISI inspectors to check on the national smoking ban from 1st July 2007 or to include it within the inspection of health and safety requirements.

EYFS → Safety and suitability of premises, environment and equipment, Note E63

Boarding → NMS 6 - Safety of Boarders, Note B49

Paragraph 12 – Fire

The standard in this paragraph is met if the proprietor ensures compliance with the Regulatory Reform (Fire Safety) Order 2005.

213. The Regulatory Reform (Fire Safety) Order 2005 requires the proprietor to take such fire precautions as will ensure as far as reasonably practicable that safety of staff or anyone else legally on the premises. The government has produced a short guide to the Order which explains how to conduct a fire risk assessment and put arrangements in place: [Making your premises safe from fire](#). For ISI inspection purposes these requirements, when documented are termed a Fire Policy though schools may call it something else.

FIRE POLICY CONTENT

214. The regulations require **a fire risk assessment** (formally recorded and regularly reviewed so as to keep it up to date) and place on the proprietor or governing body additional duties to:
- produce a fire risk (prevention) policy which includes the elimination or reduction of risks from dangerous substances;
 - develop and implement fire procedures and provide staff training (repeated periodically where appropriate);
 - ensure the safety of staff or anyone else legally on the school premises;
 - carry out fire drills and contact emergency services when necessary;
 - appoint one or more competent persons (with sufficient training, experience and knowledge) to assist in taking preventive and protective measures (including firefighting and evacuation);
 - have a suitable system for the provision and maintenance of: clear emergency routes and exits (with doors normally opening in the direction of escape), signs, notices, emergency lighting where required, fire detectors, alarms and extinguishers; the maintenance should be by a 'competent person' (for example, ISO9001 certified or BAFE approved);
 - provide staff and any others working on the school site with fire safety information.

IMPLEMENTATION

215. The fire risk assessment should be reviewed regularly in the light of any changes that occur in the school.
216. Inspections will look for effective planning, organisation, control, monitoring and review of the preventive and protective measures, including reference to the documentation listed below in addition to on-site viewing of fire safety arrangements and interviews with staff and pupils.

217. Staff are required to take “reasonable care” in carrying out their duties. Inspectors should expect schools to act promptly on any recommendations from the Fire and Rescue Service (FRS), see below, or other external fire experts, unless the recommendations suggest a lower priority. In order to prove that the duties are properly discharged, the school’s ‘responsible person’ should keep records of the following:

- the fire risk assessment and its review;
- the fire risk (prevention) policy;
- fire procedures and arrangements;
- training records;
- records of inspection of escape routes;
- fire practice drills;
- certificates for the installation and records of maintenance of alarms, detectors, emergency lighting and fire-fighting systems and equipment.

OTHER INFORMATION

218. The local FRS will inspect independent schools periodically on a risk assessed basis in the same way as it does any other business. This is likely to mean more frequent FRS inspections, for instance, for boarding schools or those dealing with pupils with special educational needs. No new independent school may open until the FRS has been informed and has either inspected the premises or advised that this is not required or can be done at a later date. The FRS will be involved in building regulations approval, where these apply to new building or alterations and will take a risk-based approach to additional school premises.

219. Inspectors should not be narrowly prescriptive in their interpretation of the fire risk (prevention) policy, but a written statement of the requirements as in the ‘Fire safety’ note above would denote good practice.

Boarding → NMS 7 - Fire Precautions and Drills, Note B54

Paragraph 13 – First aid

The standard in this paragraph is met if the proprietor ensures that first aid is administered in a timely and competent manner by the drawing up and effective implementation of a written first aid policy.

220. From January 2015, the standard includes the timely and competent administration of first aid and the effective implementation of the first-aid policy.

221. The regulation does not require schools to have regard to any particular guidance and so the policy can be developed as appropriate for the school.

FURTHER GUIDANCE

222. DfE guidance on [First aid in schools](#) is available to assist schools in preparing their policies. The main points in that guidance are listed below, although it is not a requirement for information about all of these to be included within the policy, and schools cannot be found to be non-compliant on that basis alone:

- practical arrangements at the point of need;
- the names of those qualified in first aid and the requirement for updated training every three years;

- having at least one qualified person on each school site when children are present;
- showing how accidents are to be recorded and parents informed;
- access to first-aid kits;
- arrangements for pupils with particular medical conditions (for example, asthma, epilepsy, diabetes);
- hygiene procedures for dealing with the spillage of body fluids;
- guidance on when to call an ambulance;
- reference to RIDDOR.

IMPLEMENTATION

223. During the inspection, the implementation of the policy will be checked through direct observation around the school, responses of parents and pupils to questionnaires, interviews with pupils and staff and scrutiny of records and documentation.

EYFS → Staff qualifications, Note E36

Boarding → Boarders' health and well-being, Note B18

Paragraph 14 – Supervision

The standard in this paragraph is met if the proprietor ensures that pupils are properly supervised through appropriate deployment of school staff.

224. The standard does not require a written policy about the supervision of pupils. Inspectors will take a professional judgement in view of the age of the pupils and the activities in which they are engaged. Records such as staff rotas and guidance provided to staff about supervisory duties will be considered by inspectors on-site.

225. When a member of staff is supervising in a remote location, a mobile phone may be advisable. Where senior pupils (usually prefects or the equivalent) have supervisory responsibilities for younger pupils, there must always be a member of staff readily available and in overall charge.

EYFS → 3.28–3.36 Staff:child ratios

Boarding → Staffing and supervision, Note B107

Paragraph 15 – Admission and attendance registers

The standard in this paragraph is met if the proprietor ensures that an admission and attendance register is maintained in accordance with the Education (Pupil Registration) (England) Regulations 2006.

226. The DfE publication [Children missing education](#) (2016) describes the legal requirements in relation to registers. DfE advice about wider attendance issues is also to be found in [Advice on School Attendance](#) (2016) (though this is no longer completely up to date in relation to registration requirements). Many schools now have fully electronic systems in place to record admissions and attendance. Inspectors should utilise the electronic systems to evaluate the registers and should not expect schools to print registers in hard copy for inspection purposes.

ADMISSION REGISTER

227. For each pupil, the admission register must contain:

- name in full;
- sex;
- name and address of every person known to the proprietor to be a parent of the pupil (and an indication of which parent the pupil normally lives with and which parents hold parental responsibility as defined by Section 3 Children Act 1989) – NB parents holding parental responsibility, even if not actually caring for the child, have a right to receive relevant information from the school in respect of any pertinent matter affecting the child, unless a court order indicates otherwise;
- from September 2016, where a parent notifies a school that a pupil will live at another address, in addition or instead, the new address, the full name of the parent with whom the pupil will normally live in future and the date from which it is expected the pupil will normally live there, where it is reasonably practicable for the school to ascertain this information;
- at least one telephone number at which the parent can be contacted in an emergency;
- day, month and year of birth;
- day, month and year of admission or re-admission to the school;
- name and address of the school last attended, if any;
- an indication of boarding or day attendance (in schools which include boarders);
- from September 2016, the name of the destination school (or additional school, in the case of dual registration) notified by a parent and the first date of attendance, where it is reasonably practicable for the school to ascertain this information.

228. Cross-referencing to the safeguarding standard in paragraph 7(a) and (b), *KCSIE* now states that schools should hold more than one emergency number for each pupil ‘where reasonably possible’. For pupils who have two or more parents or carers, the new requirement is likely to be met already as a result of the requirement of the registration standard, above, to have details of each parent and at least one telephone number for each. Inspectors may probe how schools ensure they have more than one emergency contact number for pupils with fewer than two parents.

- If a school does not gather at least one number at which each parent can be contacted in an emergency, that would be reported as a failure under paragraph 7.
- If a school does not gather at least one number per parent at which they can be contacted and has one or fewer contact numbers for a child where it may have been possible to seek more, this points to failure of the standards in both paragraph 15 and 7.
- If a school gathers at least one number per parent but this still leaves them with only one or fewer numbers for a child (eg because the child only has one parent) this might meet the standard in 15 but not 7, depending on whether it might have been reasonably possible to obtain another.

229. The name of a pupil must be included in the register from the beginning of the first day on which the school has agreed, or has been notified, that the pupil will attend the school. For most pupils the expected first day of attendance is the first day of the school year.

230. Deletions from the admissions register are also regulated. Since 2006, schools have been obliged to inform their local authority (where the school is situated) where a pupil's name is going to be deleted from the admission register on certain grounds. In summary, these were: when the child has been taken out of school to be home educated; when the family has apparently moved away; when the child has

been certified as medically unfit to attend; when the child is in custody for more than four months; when the child has been permanently excluded.

231. From 1 September 2016, the above duty is extended. **Schools must notify their ‘own’ local authority when they remove or add a pupil’s name to the admissions register at non-standard transitions, i.e. where a compulsory school-aged child leaves a school before completing the school’s final year or joins a school after the beginning of the school’s first year.** The lawful grounds for removing a pupil, including the original ones above, and the information to be reported to the local authority, are set out in detail in [Children missing education](#) 2016. Schools are also under a duty to provide information to the local authority for standard transitions if requested. Inspectors may remind schools that there is overlap also with *KCSIE* which recognises children missing education as a safeguarding issue particularly when a child leaves with no known destination. For this reason, although the legal requirement under the registration regulations is met if the school reports to its ‘own’ local authority, inspectors may advise that it is helpful for schools also to copy in the local authority where the child is normally resident.
232. In relation to deletions from the register, the duty arises as soon as the grounds for deletion are met and in any event before deleting the child’s name. As to non-standard admissions, the notification is to be made within five days of the entry on the admission register.
233. From September 2016, a school’s right under the regulations to delete a pupil for non-return within 10 school days after authorised leave of 10 school days or more, or after 20 school days unauthorised absence (in both cases, in the absence of illness or other unavoidable cause), does not arise until the school and local authority have jointly made reasonable enquiries (described in the guidance) as to the pupil’s whereabouts and failed. Inspectors may remind schools that, as independent schools, their right to remove a pupil will in addition be subject to the terms and conditions of their own school/parent contract.
234. Schools are also obliged to notify the local authority when a child or pupil fails to attend school regularly or is absent without leave for more than 10 school days (continuous).
235. For compliance purposes, inspectors should expect schools to be aware of the broad duty to notify/make returns to the local authority for all non-standard admissions and departures, to know or be able to ascertain the correct local channels for so doing, to be able to evidence that, if there have been any non-standard admissions or departures, the required notifications have occurred in accordance with local procedures, and that the school works co-operatively with the local authority in making returns as requested and reasonable enquiries where necessary. Inspectors should advise that it is a criminal offence not to report when so required.

ATTENDANCE REGISTER

236. For all day pupils of compulsory school age, the attendance register must be completed at the start of each morning session and once during each afternoon session. It must show whether the pupil is:
- present;
 - absent;
 - attending an approved educational activity outside school (approved by the ‘proprietor’ and supervised by a person approved by the proprietor or head, and including work experience or sporting activity);
 - unable to attend through exceptional circumstances (unavoidable closure of school site or part of it; unavailability of transport provided by school or local authority, where the home is not within walking distance);

- taking authorised absence (granted leave of absence by the proprietor or a person acting on the proprietor's behalf; unable to attend by reason of sickness or unavoidable cause; observing a day exclusively set apart for religious observance by the religious body to which the parent belongs);
- taking unauthorised absence (if no reason is established when the register is taken; the entry may be corrected later when the reason is established).

237. A pupil may be marked in the attendance register as unable to attend because of exceptional circumstances where the school site, or part of it, is closed or where transport normally provided for that pupil by the school or the local authority is unavailable. Where a pupil is attending another school at which he/she is a registered pupil he/she must be marked in the attendance register as attending an approved educational activity.
238. DfE has a standard set of codes for schools to use in registers. They are not statutory for independent schools but may be used by them. Under this system, an N is first entered when no reason has yet been provided for absence, and this is later corrected (ideally within two weeks) using the appropriate symbol (in this case only, overwriting is allowable in an electronic system) and N must not be allowed to remain indefinitely.
239. Where the reason for absence is not initially known, under the previous system (still allowable in an independent school), an O is entered and a reason entered within the O at a later stage if it is known (ideally within two weeks) but, if a reason is never established, the O remains as unauthorised absence. For convenience, and to act as a check on pupils' whereabouts for reasons of welfare or health and safety, it is recommended that all schools should register boarding as well as day pupils, but this is not a legal requirement. Similarly, it is not a specific legal requirement to register children of pre-school age or sixth-form pupils. However, for welfare, health and safety, pastoral and educational reasons, it is recommended that they should be registered in a similar way. In the case of sixth-form pupils, the distinction between authorised and unauthorised absence is not necessary, and the timing of registration may be more flexible.
240. If an independent sixth form college has five or more pupils of compulsory school age, it must be registered as a school. Where pupils are following normal sixth-form courses, it is recommended that they follow the DfE requirements for attendance (although there is no need to record authorised and unauthorised absence for the sixth-form pupils). The keeping of attendance data is essential for the care of the pupils' academic progress and for reporting on it. It is also a welfare matter for the college to know when pupils are or are not on the premises. Flexibility is reasonable for the timing and method of registration for the post-16 pupils, particularly those on limited programmes of study, but whatever system is used should be rigorously implemented.

KEEPING THE REGISTERS

241. Entries must be in ink and any amendments must show the original and amended entries, the reason for the amendment, the date of amendment and the name of the person making the amendment. A computerised register counts as being in ink. Where the admission or attendance register is kept by means of a computer, an additional back-up copy must be made either electronically or as a printed copy, not less than once a month. For example, each month's permanent electronic copy might be stored on a CD or flash drive/USB device. Each of these additional copies of the admission register and the attendance register must be retained for three years after the end of the school year in question, as must registers hand-written in ink.
242. Inspectors must observe a sample of registration sessions and examine the attendance and admission registers to assure themselves that the requirements are being met.

OTHER INFORMATION

243. There is no longer a requirement for independent schools to return absence data to the DfE and inspectors can no longer check a school's overall statistics, unless it has kept them for its own purposes.

244. Despite the clear overlap between the registration requirements and the safeguarding duty on schools towards children missing education, failure to report children missing education, when this is a requirement, is to be reported under standard 15, not 7.
245. The proprietor of a school which fails to comply with the requirements of the Education (Pupil Registration) (England) Regulations 2006, as amended, including its reporting requirements, is guilty of a criminal offence, under section 434(6) of the Education Act 1996, and can be fined.

Paragraph 16 – Risk assessment

The standard in this paragraph is met if the proprietor ensures that-

- (a) the welfare of pupils at the school is safeguarded and promoted by the drawing up and effective implementation of a written risk assessment policy; and
- (b) appropriate action is taken to reduce risks that are identified.

246. The aim of this standard is not to make schools risk-averse but to ensure they take an active approach to managing risk, and thereby reduce the likelihood that pupils will be harmed through negligence and lack of foresight or proper planning. This standard requires a written risk assessment policy. This may already be included in the health and safety policy of schools and the regulation does not dictate whether it should be separated out. The procedures for risk assessment should be sufficiently detailed and cover all reasonably foreseeable welfare issues relevant to the school, such as safeguarding risks connected with visitors or eating disorders. The more thorough the policy is, the less likely it is to be appropriate for it to sit within a 'health and safety' policy.
247. The policy should demonstrate that risk assessment is systematic with a view to promoting children's welfare. In the absence of official published guidance from the DfE, the following is provided to support a common approach to compliance and advice across inspections; absence of individual items will not indicate non-compliance unless, in context, the omission is material, and/or the policy intention of the standard is not met. In context it may be clear that other issues should be covered.
- Suggested areas of coverage: health and safety (eg premises and equipment, public rights of way), matters related to pupil welfare (eg medical needs, supervision and school trips), recruitment-related issues (eg late DBS checks), matters related to safeguarding (eg *Prevent*, bullying), lessons (activities, recreation, sport, boarding), other issues of relevance to the particular school.
 - Suggested content: when risk assessments should be completed and by whom, any system of authorisation, recording (including any pro-forma), training for staff, implementation, system for monitoring and evaluating effectiveness.
248. Inspectors should not expect the policy to require all risk assessments to be in writing, but significant findings of risk assessment should be in writing and risk assessments should be suitable and sufficient.
249. During an inspection a sample of risk assessments will be scrutinised and actions followed up. It should be clear to inspectors that the school understands that risks assessment are not purely a paper exercise that is an end in itself; schools must be able to provide evidence of the actions they are taking or have taken to reduce risks identified.

EYFS → 3.64 Risk assessment

Other legislation

Equality Act 2010

250. The majority of equality legislation is outside the scope of inspection. However, since January 2015 anti-discrimination considerations have been introduced into Part One of the standards. In addition, Schedule 10 of the Equality Act 2010 requires schools to have a three-year accessibility plan.

Schedule 10

- 3(1) The responsible body of a school in England and Wales must prepare—
- (a) an accessibility plan;
 - (b) further such plans at such times as may be prescribed.
- 3(2) An accessibility plan is a plan for, over a prescribed period—
- (a) increasing the extent to which disabled pupils can participate in the school's curriculum,
 - (b) improving the physical environment of the school for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the school, and
 - (c) improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.
- 3(3) The delivery in sub-paragraph (2)(c) must be—
- (a) within a reasonable time;
 - (b) in ways which are determined after taking account of the pupils' disabilities and any preferences expressed by them or their parents.
- 3(4) An accessibility plan must be in writing.
- 3(5) The responsible body must keep its accessibility plan under review during the period to which it relates and, if necessary, revise it.
- 3(6) The responsible body must implement its accessibility plan.
- 4(1) In preparing an accessibility plan, the responsible body must have regard to the need to allocate adequate resources for implementing the plan.

251. The requirement for three-year planning originally ran from 1 April 2003 to 31 March 2006. It was then extended to cover subsequent three-year periods. The current period is from 1 April 2015 to 31 March 2018. However, in practice any current three-year period can be accepted.

ACCESSIBILITY PLAN CONTENT

252. The three-year plan should include how the school plans to (with timescales):

- increase the extent to which disabled pupils (including those with special educational needs) can participate in the school's curriculum;
- improve the provision to disabled pupils of information which is already in writing for pupils who are not disabled;
- improve the physical environment of the school in order to increase the extent to which disabled pupils are able to take advantage of education and associated services offered by the school.

FURTHER GUIDANCE

253. Even where all appropriate provision could be claimed to be well established, the school should still have some form of plan with additional developments. 'Disabled pupils' for the purpose of the disability access plan refers not only to those with physical disabilities but could include, for example, those with health issues, including mental health, or learning disabilities if they meet the legal definition of 'disability'.

254. The Equality Act 2010 retains the previous definition of disability: 'A physical or mental impairment which has substantial and long-term adverse impact on a person's ability to carry out normal everyday activities'. This has some overlap with the definition of 'special educational needs' in the Children and Families Act 2014 (which includes pupils with significantly greater difficulty in learning than the majority of children of his/her age, or a disability which means that a pupil cannot make full use of the general educational facilities provided for pupils of their age in mainstream state schools) but not all pupils are disabled by their SEN and vice versa.

IMPLEMENTATION

255. During inspection, inspectors will check the suitability of the three-year plan and how it is being implemented in the school and undertake interviews with relevant staff and pupils.

OTHER INFORMATION

256. To inform their advice and inspection of other standards, which require schools to cater for the needs of all pupils, inspectors may wish to be aware of other aspects of the Equality Act.

257. Academically selective schools may select pupils by ability and aptitude (and need not adjust the pass mark for pupils with disabilities), schools with a religious designation may select by religion and single sex schools, by gender. It is permissible to treat pupils differently on the basis of age.

258. It would be unlawful discrimination in England, for example, to make girls sit at the back, limit the subjects they can study or the careers advice available to them, because they are girls.

259. Schools must:

- not treat disabled pupils less favourably;
- take reasonable steps to avoid putting disabled pupils at a substantial disadvantage (the 'reasonable adjustment' duty) in matters of admission and education.

260. The duty to make 'reasonable adjustments' does not include a duty to change physical features. From 1 September 2012 it does include a duty to provide auxiliary aids and services: 'where a disabled person would, but for the provision of the auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, [a duty] to take such steps as it is

reasonable to have to take to provide the auxiliary aid'. There are no generic answers as to what is a reasonable adjustment. The duty is always child specific and context specific. Many suggestions made in the non-statutory advice from the DfE, or statutory guidance aimed at state schools or LAs, could be viewed as steps/adjustments which could potentially be reasonable for independent schools to make for pupils with disabilities. See, for example, the suggestions contained in advice documents listed in the [glossary](#).

261. The legal definition of 'disability' expressly excludes certain conditions: a tendency to set fire, steal, physical or sexual abuse of other persons, exhibitionism and voyeurism. This has the effect that a pupil with a disability is not protected by the Equality Act in relation to these specific behaviours though reasonable adjustments should be made to avoid the behaviours arising (eg 'cooling off' strategies, supervision). Tattoos, piercings and addictions to alcohol, nicotine and other substances are also expressly excluded from the protection of the Equality Act.
262. Independent schools receiving local authority placements do not have a clear legal obligation to meet maintained school legislation (the Public Sector Equality Duty) in matters such as producing a written 'disability equality scheme', a written 'race equality policy' or a written 'gender equality scheme'. However, they may produce these if they so wish and public bodies may impose requirements as a condition of funding.

EYFS → Special educational needs, Note E73
Boarding → Equal opportunities, Note B121

The ban on corporal punishment (section 548 of the Education Act 1996 as amended by section 131, School Standards and Framework Act 1998)

- (1) Corporal punishment given by, or on the authority of, a member of staff to a child—
 - (a) for whom education is provided at any school, or
 - (b) for whom education is provided, otherwise than at school, under any arrangements made by a local education authority, or
 - (c) for whom specified nursery education is provided otherwise than at school,
 cannot be justified in any proceedings on the ground that it was given in pursuance of a right exercisable by the member of staff by virtue of his position as such.
- (2) Subsection (1) applies to corporal punishment so given to a child at any time, whether at the school or other place at which education is provided for the child, or elsewhere.
- (3) The following provisions have effect for the purposes of this section.
- (4) Any reference to giving corporal punishment to a child is to doing anything for the purpose of punishing that child (whether or not there are other reasons for doing it) which, apart from any justification, would constitute battery.
- (5) However, corporal punishment shall not be taken to be given to a child by virtue of anything done for reasons that include averting—
 - (a) an immediate danger of personal injury to, or
 - (b) an immediate danger to the property of, any person (including the child himself).
- (6) 'Member of staff', in relation to the child concerned, means—
 - (a) any person who works as a teacher at the school or other place at which education is provided for the child, or

- (b) any other person who (whether in connection with the provision of education for the child or otherwise)—
- (i) works at that school or place, or
 - (ii) otherwise provides his services there (whether or not for payment),
- and has lawful control or charge of the child.

FURTHER GUIDANCE

263. Corporal punishment is prohibited for all pupils in independent and maintained schools. No separate policy is required and guidance to staff may be included in a Staff Handbook or similar.
264. The prohibition includes the administration of corporal punishment to a pupil during any activity, whether or not within the school premises. The prohibition applies to all ‘members of staff’. These include all those acting *in loco parentis*, such as unpaid, volunteer supervisors. Teachers may use ‘physical intervention’ to avert ‘an immediate danger of personal injury to, or an immediate danger to the property of, a person’ (including the child).
265. Difficulties can arise from the interplay between the rule against corporal punishment and the legitimate use of reasonable force. The DfE’s [advice for schools](#) on the use of reasonable force provides a useful resource.

IMPLEMENTATION

266. Inspectors will check that the school has a clear policy that corporal punishment is not used and that guidance is given to all ‘members of staff’ (as defined above) on the circumstances in which ‘physical intervention’ is allowable.

EYFS → Managing behaviour, Note E61

Preventing Radicalisation (Counter-Terrorism and Security Act 2015)

Section 26 General duty on specified authorities

- (1) A specified authority must, in the exercise of its functions, have due regard to the need to prevent people from being drawn into terrorism.
- (2) A specified authority is a person or body that is listed in Schedule 6.

Section 29 Power to issue guidance

- (1) The Secretary of State may issue guidance to specified authorities about the exercise of their duty under section 26(1).
- (2) A specified authority must have regard to any such guidance in carrying out that duty.
- (5) Guidance issued under subsection (1) takes effect on whatever day the Secretary of State appoints by regulations made by statutory instrument.

267. The Counter-Terrorism and Security Act 2015 places a duty on schools to have due regard to the need to prevent people from being drawn into terrorism (‘the *Prevent* duty’) and in so-doing have regard to [guidance issued by the Secretary of State](#). The *Prevent* duty came into force on 1 July 2015. This duty is reported under paragraphs 7(a) and (b) of the standards, and related standards, as part of safeguarding duties. See above.

Part 4 – Suitability of staff, supply staff, and proprietors

268. The regulations relating to vetting checks are the most complex and require particularly careful consideration by inspectors.
269. The first step is to ascertain what category the individual falls within and whether they are required to be included on the Single Central Record (SCR) of appointments:

	Part 4 applies?	Included on the SCR?
Staff , whether or not in regulated activity	Yes paragraph 18	Yes
Volunteer	No*	If they are checked, the checks should be recorded on the SCR – <i>KCSIE</i> .
Supply Staff	Yes paragraph 19	Yes
Employees of contractors and other third parties (eg visiting professionals)	No*	No
Self-employed contractors arranged by the school (whether or not charged direct to parents)	Yes if effectively 'staff', otherwise, no. (See note 278 later)	Yes if effectively 'staff', but otherwise, no. (See note 278 later)
Chair of proprietors/governors	Yes paragraph 20	No (see note 304 later)
Other proprietor/governor (members of a body)	Yes paragraph 20	Yes
Non-proprietor governor	No*	No
Adults who supervise children on work experience	No*	No
Host families	No*	Not required on SCR if a 'private arrangement' between families. Otherwise, if the school is the regulated activity provider, they should be included.
* Those categories marked 'No' may still need vetting checks – as part of the school having regard to DfE safeguarding guidance, and schools may continue to include them on the SCR if they wish. The section from note 368 onwards at the end of this Part gives further details.		

Relevancy test

270. Changes introduced from January 2015 brought the standards into line with the Protection of Freedoms Act 2012, and ostensibly removed the blanket application of certain vetting checks requiring them only for regulated activity or 'where relevant'. Relevance is defined by reference to whether a person is or will be engaging in [regulated activity](#) using definitions both pre- or post- the Protection of Freedoms Act 2012. However, having regard to *KCSIE*, in practice this has little effect in relation to enhanced criminal record checks.

271. Barred list checks are only ‘relevant’, available and required when the person will be engaging in regulated activity as currently defined, that is, post- the Protection of Freedoms Act.

Regulated activity

272. Understanding regulated activity is key to understanding Part 4. The full legal definitions of regulated activity are set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006 as amended by the Protection of Freedoms Act 2012.

273. Currently there is more than one definition of ‘regulated activity’ which is relevant to schools. The following are those most relevant and in the order of most relevance to schools

Definitions of regulated activity

- 1 ALL **REGULAR** WORK FOR SCHOOLS WITH OPPORTUNITY FOR CONTACT WITH CHILDREN IS REGULATED ACTIVITY, except:
 - Work (not entailing personal care, within definition 2) by supervised volunteers
 - Work (not entailing care or teaching, within definitions 2 or 3) by occasional/temporary contractors
 - Work by pupils for other pupils (excepting for those in early years) (known as ‘the peer exemption’).
- 2 Relevant personal care, or health care is regulated activity –
 - Personal care includes helping a child, for reasons of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing;
 - Health care in this context means care for children provided by or under the direction or supervision of, a regulated health care professional.

Note that ‘care’ within this definition is always regulated; considerations of regularity and supervision do not apply.
- 3 **Regular**, unsupervised teaching, training, instructing, caring for or supervising children is regulated activity and so is regularly
 - providing advice or guidance for children on well-being, or
 - driving a vehicle only for children.

274. Although the third definition concerns teaching, which is the primary function of schools, this definition rarely needs to be considered by schools as ALL work, including teaching, which is done for a school will usually be considered under the first definition above. The third definition is mainly of relevance to, for example, peripatetic teachers whose work in one school would not be ‘regular’ but whose work across several schools meets the ‘regular’ definition (for which see the [glossary](#)).

Deciding whether a person is engaging in regulated activity

275. Key questions:
- Is the activity they will do ‘work’? (A person, for example, visiting the head or their own child would not be working.)
 - Is the work regular? (See definition of ‘[regular](#)’)
 - Does it give rise to opportunity for contact with children? (This applies whether or not that contact is required by the work and whether or not it actually takes place. The issue is whether there is ‘opportunity’.)

- Is the work for the purposes of the school? (This would not include, for example, those working for bodies hiring premises for other purposes out of school hours.)

If the answer to all these questions is 'yes', the person is working in regulated activity unless an exception as below applies:

- Is the person a volunteer?
 - If so, does their work involve personal care of pupils? (See definition of personal care, above.)
 - If so, the volunteer is engaged in regulated activity because [personal care](#) work is always regulated activity.
 - If not, are they supervised? (See DfE's [supervision guidance](#).)
 - If so, the volunteer is not engaged in regulated activity as a supervised volunteer, not doing personal care work, is not in regulated activity.
- Is the person a contractor?
 - If so, are they administering personal care or health care, as defined? [These are always regulated activity.]
 - If not, are they teaching pupils? [Regular teaching is always regulated activity.]
 - If not teaching work, is the contract for occasional or temporary non-teaching work (such as a quick plumbing task)? (There is no definition of 'occasional or temporary' but see the definition of 'regular'.)
 - If so, the contractor is not in regulated activity as non-teaching work by occasional or temporary contractors is not regulated activity.

Paragraph 18 – Appointment of staff

- (1) The standard in this paragraph relates to the suitability of persons appointed as **members of staff** at the school, other than the proprietor and supply staff.
- (2) The standard in this paragraph is met if—
 - (a) no such person is **barred** from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that person is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act;
 - (b) no such person carries out work, or intends to carry out work, at the school in contravention of a **prohibition order**, an interim prohibition order, or any **direction made under section 128** of the 2008 Act or section 142 of the 2002 Act, or any disqualification, prohibition or restriction which takes effect as if contained in either such direction;
 - (c) the proprietor carries out appropriate checks to confirm in respect of each such person—
 - (i) the person's **identity**;
 - (ii) the person's **medical fitness**;
 - (iii) the person's **right to work** in the United Kingdom; and
 - (iv) where appropriate, the person's **qualifications**;
 - (d) the proprietor ensures that, where relevant to any such person, an **enhanced criminal record check** is made in respect of that person and an enhanced criminal record certificate is obtained before or as soon as practicable after that person's appointment;

- (e) in the case of any person for whom, by reason of that person living or having lived outside the United Kingdom, obtaining such a certificate is not sufficient to establish the person's suitability to work in a school, such **further checks** are made as the proprietor considers appropriate, having regard to any guidance issued by the Secretary of State; and
- (f) in the case of staff who care for, train, supervise or are in charge of boarders, in addition to the matters specified in paragraphs (a) to (e), the proprietor checks that **Standard 14 of the National Minimum Standards** for Boarding Schools or, where applicable, Standard 14 of the National Minimum Standards for Residential Special Schools, is complied with,

and in the light of the information from the checks referred to in paragraphs (c) to (f) the proprietor considers that the person is suitable for the position to which the person is appointed.

- (3) The checks referred to in sub-paragraphs (2)(c) and (except where sub-paragraph (4) applies) (2)(e) must be completed before a person's appointment.
- (4) The checks specified in sub-paragraphs (2)(d), (e) and (f) do not need to be carried out where the new member of staff ('M') has worked in—
- (a) a school or a maintained school in England in a position which brought M regularly into contact with children or young persons;
- (b) a maintained school in England in a position to which M was appointed on or after 12th May 2006 and which did not bring M regularly into contact with children or young persons; or
- (c) an institution within the further education sector in England or in a 16 to 19 Academy in a position which involved the provision of education or which brought M regularly into contact with children or young persons,
- during a period which ended not more than three months before M's appointment.

276. The regulations provide a detailed list of the checks which are required for each new member of staff. The definition of staff is: *Any person working at the school whether under a contract of employment, under a contract for services or otherwise than under a contract, but does not include supply staff or a volunteer.*

277. The three strands of the definition of staff can be applied as follows. Any person working at the school whether:

- *under a contract of employment* [this covers every employee, no matter what sort of work they do];
- *under a contract for services* [this covers self-employed people arranged and/or paid direct by the school; it does not include those in a contract for services with others, subject to the exception immediately below];
- *or otherwise than under a contract* [this covers self-employed people who are arranged by the school for the purposes of the school but, for example, paid direct by parents, such as some peripatetic teachers and therapists; it does not include, for example, private employees of parents permitted to enter school by agreement];
- but does not include supply staff or a volunteer.

278. In relation to the second and third strands, the DfE permits schools to exercise professional discretion as to when self-employed people should be treated as 'staff' or as 'contractors' (see later). The inspection expectation is that, as a rule of thumb, if the person is in regulated activity in the school they should normally be treated as 'staff'. This could have the effect that an invigilator who works for a week is treated as 'staff' but a self-employed plumber who does likewise is treated as a contractor. For this grey area of worker definition, inspectors should respect the DfE policy intention to allow discretion to professionals in schools and probe, if necessary, whether a school has made a reasonable decision in

context. Contemporaneous evidence of a risk-based decision by the school (eg a brief note on the SCR) which recognises regulated activity as a key risk factor, can be indicative of a reasonable approach, though individual written risk-assessments should not be considered a regulatory requirement.

279. In the light of the above, the following are included in ‘staff’: teachers, peripatetic teachers and coaches, part-time staff, students, administrative staff, caretakers and other ancillary staff, staff appointed from overseas, pupils paid to work at the school (for example as after-school carers).

280. There has been some change over time and the table below sets out the requirements for each change in regulations.

Staff recruitment checks over time

Date of appointment	Pre 1.9.03	1.9.03 to 30.4.07	1.5.07 to 31.8.10	1.9.10 to 2.4.14	3.4.14 to 4.1.15	5.1.15 to 12.8.15	12.8.15 to 5.9.16	5.9.16 to date	Pre-appointment?
Barred list /List99 check	✓	✓	✓	✓	✓	✓ (Regulated activity only)	✓ (Regulated activity only)	✓ (Regulated activity only)	✓ Checked separately if the person is to be in regulated activity and DBS disclosure not received in time.
Enhanced criminal record check	(Note 1)	✓	✓	✓	✓	✓ If in regulated activity (past or current definition)	✓ If in regulated activity (past or current definition)	✓ If in regulated activity (past or current definition)	Applied for (Note 5)
Identity		✓	✓	✓	✓	✓	✓	✓	✓
Medical fitness		✓	✓	✓	✓	✓	✓	✓	✓ (Note 3)
Previous employment history/CV		✓	✓	✓	✓ (Note 2)	✓ (Note 2)	✓ (Note 2)	✓ (Note 2)	✓
References					✓ (Notes 2 and 6)	✓ (Notes 2 and 6)	✓ (Notes 2 and 6)	✓ (Notes 2 and 6)	✓ (Notes 2 and 6)
Character references		✓	✓	✓					
Professional references, where appropriate		✓	✓	✓					
Qualifications, where appropriate		✓	✓	✓	✓	✓	✓	✓	✓
Overseas checks, where appropriate			✓	✓	✓	✓	✓	✓	✓ But see fuller notes
EEA check for teachers who								✓ (Note 9)	✓

have taught in the EEA									
Right to work in the UK			✓	✓	✓	✓	✓	✓	✓
Prohibition from teaching orders – for those who carry out teaching work					✓ (Note 4)	✓ (Note 4)	✓	✓	✓
Disqualification from childcare						From 27.2.15	✓ (Note 7)	✓ (Note 7)	✓ (Note 7)
Prohibition from management directions (section 128 directions)							✓ (Note 8)	✓ (Note 8)	(Note 8)
<p>Note 1 Boarding staff have needed an enhanced disclosure since April 2002 under the NMS applicable at the time.</p> <p>Note 2 Required in having regard to <i>KCSIE</i>. Gaps in checking are reported under regulation 7(a) & (b).</p> <p>Note 3 see note 250 for information about implications of the Equality Act (but note that compliance with this equality duty towards prospective employees is outside the remit of school inspection).</p> <p>Note 4 Introduced in April 2014 as part of having regard to <i>KCSIE</i> and from January 2015 by the ISSR. In late January 2015 the DfE asked schools to do this check on teaching staff appointed since 1 April 2012.</p> <p>Note 5 For those not in regulated activity, on past or current definitions, gaps in checking are reported under regulation 7(a) & (b). For those in regulated activity, on past or present definitions, gaps in checking are reported under regulation 18(2)(d).</p> <p>Note 6 From the introduction of <i>KCSIE</i> in April 2014, the requirement for references does not distinguish between professional and character references.</p> <p>Note 7 Required in having regard to Disqualification under the Childcare Act 2006. See note 163 above for an explanation of the scope of these checks for existing and new staff. Gaps in checking are reported under regulation 7(a) & (b).</p> <p>Note 8 Required for proprietors and staff appointed to management positions from 12 August 2015, but not including those starting in September 2015 for whom vetting checks had already been completed before 12 August 2015. See note 328 below for more.</p> <p>Note 9 The EEA check for applicant teachers who have taught in the EEA, is required from 5 September 2016 as part of having regard to <i>KCSIE</i>. It is also part of overseas checking within ISSR Part 4. A separate SCR column is not a compliance requirement. See note 316 below for more.</p>									

FURTHER GUIDANCE

Barred list/List 99 check

281. Barring information is usually obtained as part of an enhanced criminal record check via the DBS. To do this, the employer must indicate on the application form that barring information is requested. A barred list check can be obtained separately from an enhanced disclosure through the [Teachers' Pensions online service](#) (search for the application form or call the telephone number given on the website). There is an annual charge for registration. From September 2016, failure to make barred list checks when required, where checks subsequently made during inspection show that no person was barred, is to be reported under Part 3, paragraphs 7(a) and (b) of the Standards (failure to have regard to *KCSIE*), and also potentially under Part 8, paragraphs 34(b) and (c) if the failure is considered material.
282. Schools should note that a separate barred list check **must** be undertaken in the event that:

- a new enhanced disclosure with barring information is required but is not received in advance of a member of staff starting work in regulated activity; or
- a pre-existing enhanced DBS check is accepted under the three-month rule (for which see below) for a member of staff starting work in regulated activity; or
- a pre-existing enhanced DBS check without barring information is accepted from a candidate who has subscribed to the DBS update service.

Enhanced criminal record check

283. Criminal record checks are carried out via the Disclosure and Barring Service (DBS) and are known colloquially as DBS checks.
284. Three main types of criminal record checks are available from the DBS: Standard, Enhanced and Enhanced with barring information (for those in regulated activity- see more above). The results are recorded in a certificate. Only an employer can apply for a certificate; the applicant cannot apply on their own account.
- All three types of check include spent and unspent convictions, cautions, reprimands and warnings held on the Police National Computer.
 - An enhanced disclosure would also contain other information held on local police records which the police consider to be relevant to the workforce in which the person is applying to work. (For this purpose, the workforce is categorised as ‘the children’s workforce’, ‘the vulnerable adults workforce’ or both.)
 - For those working in schools with access to children, criminal record checks must be at the enhanced level, usually with barring information. (Barring information is only available for those in regulated activity. See above for detailed information about regulated activity).
285. From January 2018, a further check called a ‘basic’ check which contains only unspent convictions and cautions has now become available through the DBS for those living or working in England, through Disclosure Scotland for those living or working in Scotland and through AccessNI for those who live and work in Northern Ireland. Anyone can apply for a basic criminal record check for themselves or an employer can request it with consent. They are most likely to be relevant to or presented to schools by *ad hoc* workmen who will not have contact with children. The ‘basic’ check is not mentioned as a requirement in *KCSIE* or the standards but may be taken into account by schools in their own risk-based decisions when more stringent checks are not required.
286. *KCSIE* is clear that schools are not required to retain copies of DBS certificates. If they choose to do so, for reasons connected with the Data Protection Act they should not to keep them for longer than around six months. (ISI does not inspect DPA compliance except for the reference to it in the EYFS.) The Police Act 1997 makes unauthorised disclosure of any information in a DBS certificate a criminal offence. Consequently, inspectors should not expect to find DBS certificates on file or ask to read any which have been retained.
287. **The three-month rule** – Members of staff in schools must be subject to an enhanced criminal record check on entry to the school’s workforce and, thereafter, may move between schools without requirement on subsequent employer schools to carry out further DBS checks unless they leave the school’s workforce for three months or more. However, if a new school accepts a pre-existing check under this rule, they must carry out a separate barred list check, subject to the note below concerning use of the DBS Update Service.
288. **Obtaining criminal record checks** – The table below indicates the various ways in which the requirements for an enhanced criminal records check can be met for a person ‘P’.

Situation	Actions for the school
Within three months of an appointment, P has been working in a school or college and meets the requirements of 18(4) above.	The school may apply for a criminal record certificate but is not required to do so. A new, separate barred list check must be obtained.
P has a criminal record certificate from a previous employer but does not fall within the three-month rule, above, and has not subscribed to the DBS Update service.	The school must apply for a new criminal record certificate, including a barred list check. If the DBS certificate is delayed, a separate barred list check must be obtained in advance of P starting work.
P has a criminal record certificate from a previous employer at the enhanced level (including children's barred list) and has subscribed to the Update service (see note 290 below) and gives permission to the school to check the status.	The school should examine the original certificate, check it matches the individual's identity and run an online Update check, which will provide information about any changes since the certificate was issued. If the check indicates that there has been a change then the individual must apply for a new certificate. If the original check did not include barring information for the children's workforce, a separate barred list check must be obtained.
P has a criminal record certificate from a previous employer at the standard level and has subscribed to the Update service.	The school should apply for a new disclosure, including a new barred list check, because the previous disclosure is not at the correct level.

289. Since 17 June 2013 criminal record certificates are only supplied by the DBS direct to the applicant, not to the employer. Until the school has had sight of the original disclosure certificate, the applicant should be treated as unchecked and subject to the safeguards set out below. This requirement arises from both the DBS Employer Guidance and *KCSIE*. However, if the school has received official advance information from the DBS or a registered umbrella body that the DBS certificate has been issued and contains no information, it will be reasonable for a school to take this into account when assessing the safeguards which are appropriate.
290. Also, from 17 June 2013, the applicant may subscribe to the DBS Update service. This enables other employers to check instantly on-line that there have not been changes since the issue of a DBS certificate. The DBS Update service updates all the information which was included in the initial certificate. So, if an initial certificate included barring information, a change would be indicated during an update check if the certificate-holder's barred status were to change. A new full check would then be required to access more information about the nature of the change. See table above for more information.
291. When a DBS check is required, schools may apply once an appointment is made, even if that is more than three months before the applicant will start work. However, it would be seen as best practice to undertake the check closer to appointment.

What does the school need to do if a disclosure is delayed?

292. If an enhanced criminal record check is required but the DBS certificate is not available before a person starts work in regulated activity, a head may allow the member of staff to commence work:
- after a satisfactory check of the barred list if the person will be working in regulated activity;
 - and all other relevant checks have been completed satisfactorily;

- provided that the DBS application has been made in advance;
- with appropriate safeguards taken (for example, loose supervision). The safeguards should be determined through risk assessment.

293. Previous additional advice to:

- avoid confirming the appointment;
- review safeguards at least every two weeks;
- ensure the person in question is informed of the safeguards in place;
- add a note to the single central register and keep evidence of the measures put in place;

does not appear in *KCSIE*. These points should now be considered good practice advice and/or evidential of safeguards.

294. Applicants who are residing overseas when applying for a criminal record check should refer to the [DBS guidance for applicants with unusual addresses](#). It may be possible for a [registered body](#) such as a school or its [umbrella organisation](#) to submit a disclosure application form whilst an applicant is still overseas, depending on the identity documents being provided. This is lawful where the employment decision is being made in the UK. The registered body needs assurances of the applicant's identity from a reputable source overseas, for example the overseas school where the individual is currently employed or studying. For staff taking up residence and duties in a boarding house it is advisable to start the process well in advance of the proposed date of starting work so that the check is complete beforehand. Where the DBS certificate is not received in advance of employment commencing, the usual process for all staff where this is the situation outlined in the notes above must be followed, with supervision arrangements reflecting the potential for access to children.

Identity

295. An application for a criminal record (DBS) check will always include an identity check and in this context, the methodology for identity checking is subject to detailed guidance from the DBS. In summary, this typically includes official documents such as a passport, a driving licence, or a birth certificate, photographic identity, together with evidence of address (for example, a utility bill, bank statement or similar). *KCSIE* provides a [link to the full guidance](#) which also covers how to check the identity of those lacking the usual official documentation.

296. In other contexts, such as staff who are not in regulated activity or the arrival on-site of staff who have been checked by an agency or other employers, schools are permitted discretion in their approach to identity checking, acting reasonably in accordance with the risks inherent in the particular context (eg the role the person is to perform, the level of contact with children, supervision and so forth). Typical processes entail requesting an official document which verifies identity and address, and photographic identification.

Medical fitness

297. The DfE advice, [Registration of Independent Schools 2016](#), explains this duty as follows: 'Schools must satisfy themselves of the medical fitness of staff to carry out the duties of the post applied for'. *KCSIE* references the [DfEE Fitness to Teach circular](#) from 1999. 'Medical fitness' includes both physical and mental health. No particular methodology is prescribed. Common means are through asking prospective employees to declare their fitness for the role, or to complete a medical questionnaire. This could be followed up with a request for medical advice, with the consent of the applicant.

298. The DfE advice continues: 'Disabled staff make an important contribution to the overall school curriculum, both as effective employees and in raising the aspirations of disabled pupils and educating non-disabled people about the reality of disability. Many disabled people will be medically fit to teach, though under the Equality Act 2010 employers may have to make reasonable adjustments to enable disabled people to carry out their duties effectively.'

299. Where a self-declaration is used, the regulations do not set out a particular format for this. Such declarations should be duly signed by the applicant and should contain, as a minimum, a simple statement that the applicant knows of no reasons, on grounds of mental or physical health, why they should not be able to discharge the responsibilities required by the post in question.’
300. Inspectors should be aware that, under part of the Equality Act 2010 which ISI does not inspect (section 60), employers may only ask health-related questions of applicants before the appointment is offered if the questions are specifically related to an intrinsic function of the work. The DfE advises that this would not include asking for information about previous sickness absences. Further guidance for employers on this issue has been published by the Equality and Human Rights Commission. Typical compliant approaches which reconcile the duty under the standards with that under the Equality Act include ensuring that any health-related questions posed prior to offering a post are necessary and relevant to the post applied for, or not asking health-related questions until after the appointment has been offered. Inspectors’ role is to ensure that medical fitness has been checked before new employees start work.

Previous employment history/CV/References

301. These checks are no longer specified in the regulations but are required as part of having regard to *KCSIE*. Deficiencies would, therefore, be reported under Part 3, paragraphs 7(a) and (b). The legal difference is that the duty to ‘have regard’ permits some flexibility where exceptional circumstances arise. By contrast, in principle, flexibility is not permitted in relation to the checks required by the regulations except to any extent described therein, though even in the latter instance, public reporting is now subject to considerations of materiality (for which, see the introduction to this Commentary).
302. *KCSIE* states that employers should always take up written information about employment history but does not prescribe the method by which this is done, thereby leaving schools some discretion. Although the previous statutory guidance (2007) recommended the use of application forms as best practice because they support the presentation of information in a standardised and logical way, and disapproved the use of CVs, this guidance was not carried over into *KCSIE*. Inspectors can, therefore, advise schools of good practice, but the use of a form cannot be considered a specific standalone compliance requirement. Checks of previous employment history should ascertain satisfactory reasons for any gaps in employment. The information provided by the candidate should be checked against references subsequently received, and any discrepancies taken up with the candidate.
303. The former distinction between professional and character references was removed in 2010. Referees should be asked as a minimum whether they are aware of any reason or have any concern that the applicant may be not suitable to work with children. Schools will wish to seek further information relevant and proportionate to the prominence of the role applied for.
304. *KCSIE* explains that there would be a benefit to obtaining references before interview, but the guidance has moved away from making this timing a strong recommendation. Suitability references should also be sought for internal candidates. Internal references are permissible where appropriate. Inspectors may accept that it may sometimes be more instructive, where appropriate, to enquire of current colleagues (senior - see below) whether they have any suitability concerns, particularly where colleagues from former employers are un-contactable due to passage of time.
305. *KCSIE* does not specify a number of references but implies that there will be more than one. For inspection purposes, the usual expectation is, therefore, that for suitability purposes there will be a minimum of two, ‘unless there is a good reason not to’. If a reference is taken over the telephone, for evidential purposes detailed notes must be taken, dated and signed, and make clear who was spoken to. References should be reviewed on receipt to check that all specific questions have been answered satisfactorily, with appropriate follow-up where required. Inspectors may advise that, as a matter of good practice, references not received in good time before appointment should be chased by telephone and alternative referees approached if needed. For minimum compliance purposes, references should be received before the person starts work.

306. References should always be sought from the candidate's current employer. Where there is no current employer, verification of the most recent period of employment and reasons for leaving should be obtained. (This recognises, in effect, that not all employers will provide a substantive reference.)
307. References ideally should be from a senior person with appropriate authority (in a position to be aware of issues), not usually just a colleague.
308. Any information provided directly by the candidate should be verified.
309. Schools should verify that electronic references originate from a legitimate source.
310. Questions are often asked about the value of references which confirm only that a person worked for a certain company between certain dates. Inspectors may recognise that these do confirm an element of an applicant's employment history and their whereabouts for a period, although such references should be supplemented by one or more others to address the suitability question.
311. Schools are not obliged or advised under KCSIE to give references but there is a strong expectation that they should do so.
312. See later (notes 419 and 420) for the impact of historic deficiencies.

Qualifications, where appropriate

313. It will be 'appropriate' to check qualifications where the school stipulates or an individual claims qualifications as part of the recruitment process. Such qualifications should be checked in advance of appointment. For compliance purposes, this applies to any qualifications taken into account in making the appointment.

Overseas checks, where appropriate, including checking for EEA professional sanctions

314. If, because of a person 'living or having lived' outside of the UK, a DBS check is not considered sufficient to establish suitability to work in a school (because a UK check would not cover offences committed abroad, but only those on the UK Police National Computer), schools must carry out 'such further checks as the proprietor considers appropriate, having regard to any guidance issued by the [DfE]'. Such checks must be completed before the person starts work. This standard applies where relevant both to foreign nationals and UK nationals returning from overseas.
315. No period of time is prescribed to differentiate between 'living' in a country and an extended holiday, so schools are permitted discretion to set their own policies within reasonable limits. The duration of a tourist visa may act as a useful rule of thumb, often around three months. Previously, the NSPCC advised that checks should be obtained when a person has lived overseas for three months or more in the last five years. ISI has adopted this advice as a starting point for compliance but observes that many schools now adopt a more stringent approach such as checking those who have lived or worked overseas for more than three months in the last ten years. Inspectors may allow that time spent overseas under the age of 16 is of less significance as, even in England, it is not possible to obtain checks for those aged under 16. These are rules of thumb only, and there may be situations where it is not appropriate to limit the checks carried out.
316. Although the standard allows schools some professional discretion as to the nature of the 'further checks' they seek, schools are also required to have regard to the government's guidance. The Home Office has published [guides](#) on what checks are available from different countries and foreign embassies. For compliance purposes, schools can be taken to have 'had regard' to this guidance if they have made the relevant application (or ensured the applicant did so, if it must come from them direct), before the person starts work, whether or not any response is received. In the absence of a response from official sources overseas before the person starts work, or if the country in question does not have a suitable system in place, schools must obtain alternative 'further checks' before the person starts work. Additional references (beyond the two normally expected), would be acceptable, for example.

317. **EEA check** - From 5 September 2016, in accordance with *KCSIE*, the ‘further checks’ should include a check for information about any teacher sanction or restriction that has been imposed by a professional regulating authority in the European Economic Area (EEA). This check is relevant to applicants for teaching posts in England who have taught in the EEA. It is applicable to both foreign nationals and UK nationals who have taught in the EEA. This check is carried out using the [Teacher Services](#) system. Only restrictions imposed on or after 18 January 2016 will be displayed. There is no official DfE guidance for schools to restrict those checked in this way by reference to how long ago a candidate taught in the EEA or how long for. Schools, therefore, have discretion to set a reasonable limit, such as the rule of thumb suggested above. The check does not require a separate SCR column as it can be considered part of the overseas ‘further checks’.
318. Where a member of staff has worked in a school in the UK since moving from overseas, without going back overseas, it is not necessary to repeat the overseas checks for subsequent appointments.

Right to work in the UK

319. The rules for employing migrant workers changed from February 2008, so that any employer who employs someone who is subject to immigration control, aged over 15, who is not entitled to undertake the work, could face a fine of up to £10,000 per illegal worker. The Home Office has issued [guidance](#) on right to work checks and how to carry them out.

Prohibition from teaching orders

320. Schools must now check that anyone employed or engaged to carry out teaching work in school is not subject to a prohibition order issued by the Secretary of State. It is irrelevant whether the person carrying out teaching work has Qualified Teacher Status (QTS) or a Teacher Reference Number (TRN) or is peripatetic or is charged by the school to the parents. The check is free and is completed using [Teacher Services](#), formerly known as Employer Access Online, and can be undertaken on individuals who do not have QTS by searching the alphabetical list by name. More information about how to do the check is given on [Teacher Services](#). The requirement applies to those who teach in schools, not other institutions. Schools may be directed to the DfE helpline: Employer.Access@education.gov.uk.
321. This check applies to those appointed to teach on or after 1 April 2012, but inspectors should bear in mind that it only became available in April 2014, and in January 2015 the DfE advised that it should effectively be backdated. So, checks for those appointed between April 2012–14 will not have been carried out pre-appointment through no fault of the school and schools are not to be found non-compliant on that account.
322. From September 2016, failure to make checks for prohibition from teaching, where required, where checks are subsequently made during inspection but show that no person was prohibited from teaching, is reported under Part 3, paragraphs 7(a) and (b) of the Standards (failure to have regard to *KCSIE*) and potentially also Part 8, paragraphs 34(b) and (c) if the failure is considered material.
323. ‘Teaching work’ is defined in [The Teachers’ Disciplinary \(England\) Regulations 2012](#) to encompass:
- planning and preparing lessons and courses for pupils;
 - delivering and preparing lessons to pupils;
 - assessing the development, progress and attainment of pupils;
 - reporting on the development, progress and attainment of pupils.
- ‘Delivering’ includes delivering lessons through distance learning or computer-aided techniques.
324. However, none of these activities is ‘teaching work’ if the person carrying out the activity does so (‘other than for the purposes of induction’) subject to the direction and supervision of a qualified teacher or other person nominated by the headteacher. There is no official definition in this context as to what constitutes ‘direction **and** supervision’, so some discretion is allowed to schools, but clearly the

discretion has to be exercised reasonably and the ‘direction and supervision’ must be genuine and realistic in context not merely notional.

325. Teaching assistants are unlikely to need prohibition checks as it is likely that their work is carried out under direction and supervision, but schools vary in how they deploy their teaching assistants and in the amount of responsibility and autonomy they allow them. Schools should, therefore, decide on a case by case basis, in the light of their own practice relating to teaching assistants, whether these assistants require prohibition checks. Similar reasoning would also apply to those employed as sports coaches and similar posts.
326. **Application to Early Years** – In the context of the Early Years, as a matter of best practice advice, inspectors should encourage schools to make use of the prohibition from teaching check as part of their suitability checks so that they have full information about candidates before making appointments. However:
- **Under three** – the check is not a compliance requirement for those working with children under the age of three, though information received that a person is prohibited from teaching would call into question their ‘suitability’;
 - **Three to fives** – In relation to those carrying out teaching work with children aged 3 to 5, the check is a compliance requirement, subject to the usual considerations, where children are ‘pupils’ of the main school (ie the check is available but not a requirement in institutions which are legally stand-alone independent nurseries and not registered as part of an all-through school).
327. ‘Nursery nurses’ may or may not require the check depending on the considerations above: whether the work of the particular individual amounts to ‘teaching work’; and if so whether it is under ‘direction and supervision’; the age of the children they work with; whether the children are ‘pupils’ of an independent school. Inspectors can contact the ISI office for support if required.

Prohibition from management of independent schools directions

328. From 12 August 2015, schools must check whether staff appointed to management positions after that date are subject to a section 128 direction. The DfE has reversed previous advice: **this check now applies to staff promoted internally** and ISI will inspect on this basis from September 2018.
329. The following staff are considered to be in management positions for the purpose of this check:
- headteachers;
 - all staff on the senior leadership team (including non-teaching staff);
 - teaching positions with departmental headship;
 - proprietors – refer also to note 356 for more information about this check as it applies to proprietors.

Questions arise as to what amounts to ‘departmental headship’. There is no specific definition available. Inspectors should check that the school takes a reasonable approach in the context.

330. There are two ways to do the check.
- For people who are not in regulated activity, it can only be done via Secure Access. This route is available whether or not the person has a teacher number.
 - For people in regulated activity, the check can be done either as above or via the DBS as part of checking the barred list. To do the latter, schools must include on the DBS application form, within box 61, Position Applied for: ‘Child Workforce Independent School’. This allows the DBS to confirm if a section 128 direction has been made.
331. See the [letter of the DfE to all schools](#) dated May 2018 for more. ‘Appointment’ is not defined in this context. Where, as at 12 August 2015, staff due to start work in management positions in September

2015 had already been subject to vetting checks, schools were not required to re-open the vetting process to run this new check, as it was known that no section 128 directions had yet been made at that time.

332. From September 2016, failure to check for prohibition from management, where required, is to be reported under Part 3, paragraphs 7(a) and (b) of the Standards and potentially also Part 8, paragraphs 34(b) and (c) if the failure is considered material, where checks are subsequently made during inspection but show that no person to whom it applies was prohibited from management.

Disqualification – early years and relevant later years provision

333. Pre-appointment checks in this regard (see note 163 above) may also be needed for relevant staff, leaders and managers as part of having regard to *KCSI/E*, which incorporates Disqualification under the Childcare Act 2006. This check should be undertaken from time to time, not only pre-appointment. No particular time has been set by the DfE for repeat checks, so schools can exercise reasonable discretion. Deficiencies are reportable under Part 3, paragraphs 7(a) and (b).

Transfer of employees under TUPE

334. If there is continuous employment under [TUPE](#) (transfer of undertakings protection of employment) arrangements, there is a requirement for information to be passed to the new owner. If the details are fully in order, the new employer enters them on its own central register, including the number and date of the DBS checks, and adds a note to the register that the details have been accepted under TUPE arrangements. There must have been no three-month break in employment. However, if the information is incomplete, it may be necessary to undertake a new DBS check and to include all the other necessary checks.

EYFS → Suitable people, Note E26
Boarding → Staff Recruitment and Checks on Other Adults, Note B94

Paragraph 19 – Appointment of supply staff

- (1) This paragraph relates to the suitability of supply staff at the school.
- (2) The standard in this paragraph is met if—
 - (a) a person offered for supply by an employment business to the school only begins to work at the school if the proprietor has received –
 - (i) written notification from the employment business in relation to that person—
 - (aa) that the checks referred to in paragraph 21(3)(a)(i) to (iv), (vii) and (b) have been made to the extent relevant to that person;
 - (bb) that, where relevant to that person, an enhanced criminal record check has been made and that it or another employment business has obtained an enhanced criminal record certificate in response to such a check; and
 - (cc) if the employment business has obtained such a certificate before the person is due to begin work at the school, whether it disclosed any matter or information; and
 - (ii) a copy of any enhanced criminal record certificate obtained by an employment business before the person is due to begin work at the school;
 - (b) a person offered for supply by an employment business only begins work at the school if the proprietor considers that the person is suitable for the work for which the person is supplied;

- (c) before a person offered for supply by an employment business begins work at the school the person's identity is checked by the proprietor of the school (irrespective of any such check carried out by the employment business before the person was offered for supply);
- (d) the proprietor, in the contract or other arrangements which the proprietor makes with any employment business, requires the employment business to provide—
 - (i) the notification referred to in paragraph (a)(i); and
 - (ii) a copy of any enhanced criminal record certificate which the employment business obtains,
 in respect of any person whom the employment business supplies to the school; and
- (e) except for those persons to whom sub-paragraph (4) applies, in the case of supply staff who care for, train, supervise or are in charge of boarders, the proprietor checks that the relevant parts of Standard 14 of the National Minimum Standards for Boarding Schools or where applicable, Standard 14 of the National Minimum Standards for Residential Special Schools are complied with.

(3) Except in the case of a person to whom sub-paragraph (4) applies, the certificate referred to in sub-paragraph (2)(a)(i)(bb) must have been obtained not more than 3 months before the date on which the person is due to begin work at the school.

(4) This sub-paragraph applies to a person ('P') who has worked in—

- (a) a school or a maintained school in England in a position which brought P regularly into contact with children or young persons;
- (b) a maintained school in England in a position to which P was appointed on or after 12 May 2006 and which did not bring P regularly into contact with children or young persons; or
- (c) an institution within the further education sector in England or in a 16 to 19 Academy in a position which involved the provision of education or which brought P regularly into contact with children or young persons,

during a period which ended not more than three months before P is due to begin work at the school.

335. **Who are 'supply staff'?** Paragraph 19 only applies to people 'offered for supply by an employment business' – not to all third-party staff. An [employment business](#) is narrowly defined in the ISSR, regulation 2, effectively as a supply (temping) agency. The full definition from section 13(3) of the Employment Agencies Act 1973 is: 'the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of supplying persons in the employment of the person carrying on the business, **to act for, and under the control of, other persons in any capacity**'. Supply staff could perform any function, not only teaching.

336. Schools must receive written confirmation from the relevant [supply agency](#) that the required checks have been carried out to the extent relevant to that person: identity, enhanced disclosure, right to work in the UK, barred list/List 99, prohibition from teaching, prohibition from management of an independent school, qualifications, overseas checks.

337. The school must also see each criminal record certificate, whether or not it discloses any information. The school is not required to retain a copy on file. Agencies may operate the 'three-month rule' ie people supplied to work in schools can move from one placement to the next relying on the same criminal record check unless they leave the schools workforce for three months or more, in which case a new criminal record check must be obtained before the next school placement. The criminal record certificate shown to the school must be no more than three months old, unless the three month rule applies.

338. Additionally, in having regard to *KCSIE*, the agency should take up references, obtain a declaration of medical fitness, check previous employment history and, if applicable, check whether the person is disqualified from childcare under the Childcare Act 2006.
339. The identity of supply staff must be checked on arrival at school to ensure that they are the same person on whom checks have been carried out.

FURTHER INFORMATION

340. *KCSIE* muddies the water in relation to third party staff in that it contains both a section on the vetting of ‘Agency and third-party staff’, and a section on the vetting of ‘Contractors’, who are effectively also third-party staff. The checks differ between the two groups, but no explanation or examples are given as to when ‘third-party staff’ are to be checked in line with ‘agency’ staff and when they may be subject to the less stringent regime for ‘contractor’ staff. In relation to workers who are not from an employment business (temping agency), but who might be considered either ‘third-party staff’ or ‘contractors’, schools can exercise reasonable discretion whether to treat them in line with agency staff or in line with contractor staff. See later, note 378 et seq, for the vetting requirements for contractors.

Paragraph 20 – Appointment of proprietors

341. The ‘proprietor’ is the person or body of persons responsible for the management of the school. The proprietor is the person/body named in the register of schools ([Get information about schools](#)) as proprietor. Part 4, paragraph 20 divides proprietors into three categories:

- individuals;
- chairs of a body;
- members of a body.

These three categories are dealt with separately below.

342. Every independent school must be registered with the DfE. This process, between the school and the DfE as registration authority, entails identifying and registering the proprietor. For the purposes of suitability checks under Part 4, paragraph 20, the starting position for inspectors is that the proprietor is the person or body of persons who or which has been accepted by the DfE and registered as such on [Get Information about Schools](#) (formerly Edubase).
343. If inspectors come across a situation where the proprietor is apparently different from the registered proprietor, for example, the proprietor identified to parents under Part 6 is not the proprietor registered on [Get information about schools](#), inspectors should explore with the school what the correct position is and whether the DfE has been informed of any changes. If DfE has not been informed, inspectors should inform the ISI office and advise the school to contact the DfE during the inspection, (email address: registration.enquiries@education.gov.uk).

Paragraph 20 – The individual proprietor

- (2) Sub-paragraph (3) relates to the suitability of the proprietor where the proprietor is an **individual**.
- (3) The standard in this paragraph is met if—
- (a) the individual—
- (i) is not **barred** from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
 - (ii) does not carry out work, or intend to carry out work, at the school in contravention of a **prohibition order**, an interim prohibition order, or any **direction made under section**

128 of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in either such direction; and

(b) the Secretary of State makes the following checks relating to the individual before the school is entered in the register or, in the case of a registered school, before or as soon as practicable after the individual takes over as proprietor—

- (i) where relevant to the individual, an **enhanced criminal record check, countersigned by the Secretary of State** where an application for such a check is made under section 113B(1) of the 1997 Act;
- (ii) checks confirming the individual’s **identity** and their **right to work** in the United Kingdom; and
- (iii) in the case of an individual for whom, by reason of that individual living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish the individual’s suitability to work in a school, such **further checks** as the Secretary of State considers appropriate;

and, where an enhanced criminal record check is made, the Secretary of State obtains an enhanced criminal record certificate relating to the individual.

344. The first category of proprietor is the individual. The DfE carries out the suitability checks required for individual proprietors by Part 4, paragraph 20, either when the school applies for first registration or upon notification of changes. The DfE treats each person who is a proprietor as an individual proprietor, even if there is more than one, unless and until, when there is more than one, a chair is appointed. Once a chair is appointed, the DfE checks only the chair (see second category below) and the chair is responsible for checking the other members of the body (see third category).

345. In addition to the checks required by Part 4, paragraph 20, carried out by the DfE, the proprietor should not engage in childcare if disqualified. This is not checked by the DfE and it would be the responsibility of the school to check, if this is relevant to the individual. See the extensive notes above as to when this applies.

346. Individual proprietors who are checked by the DfE are not required to be on the SCR.

Recruitment checks over time – individual proprietors and chairs

Date of appointment	Pre-1.9.03	1.9.03 to 30.4.07	1.5.07 to 31.8.10	1.9.10 to 9.9.12	10.9.12 to 4.1.15	5.1.15 to present	Checks to be undertaken by DfE?
Barred list/List 99 check	X	✓	✓	✓	X (Note 1)	✓ Yes if person to engage in regulated activity	✓ (Note 6)
Enhanced criminal record check, by Sec of State	X	✓ (Note 2)	✓	✓	✓	✓ (Note 3)	✓
Identity	X	X	✓	✓	✓	✓	✓
Overseas checks, where appropriate	X	X	✓	✓	✓	✓ Including EEA from 5.9.16, if they are to teach	✓
Right to work in the UK	X	X	✓	✓	✓	✓	✓
Prohibition from teaching						Yes if the person will carry out teaching work	✓ (Note 6)

Disqualification from childcare						From 27.2.15 (Note 4)	X
Prohibition from leadership and management						From 12.8.15 (Note 5)	(Note 5)
<p>Note 1 From 10 September 2012, it ceased to be possible to undertake these checks for new appointments unless the person will be engaging in regulated activity. Proprietorship is not itself regulated activity but a proprietor who is also the head, for example, or one who will have regular unsupervised access to pupils would engage/intend to engage in regulated activity.</p> <p>Note 2 At the standard level unless the individual also had responsibility for regularly caring for, training, supervising or being in sole charge of children.</p> <p>Note 3 An enhanced DBS check is required 'where relevant' and it is always relevant for proprietors.</p> <p>Note 4 Required in having regard to <i>KCSIE</i> which incorporates the guidance: Disqualification under the Childcare Act 2006. See note 163 above for an explanation these checks. Proprietors would be within scope of these regulations if they volunteer to work in relevant childcare on a regular basis of or are directly concerned with the day to day management of such provision. Gaps in checking are reported under regulation 7(a)&(b).</p> <p>Note 5 Required for proprietors appointed from 12 August 2015. See note 356 below for the scope of these checks.</p> <p>Note 6 The DfE does the check on entry. Repeat checks are not required but schools must ensure the position is maintained by removing a person who becomes barred or prohibited in line with any restriction placed on the person that comes to the school's attention.</p>							

347. Please see notes 281 et seq. above and 352 below for information about the process for these checks. All checks must be made in advance of appointment or as soon as practicable after appointment. Inspectors reach a conclusion as to whether later checks were undertaken 'as soon as practicable', depending on the individual circumstances.

348. The updated ISSR have retained the right to work check for all appointments, even where the Proprietor is a volunteer.

Paragraph 20 – The chair of a body of persons

<p>(4) Sub-paragraphs (5) to (8) relate to the suitability of the proprietor where the proprietor is a body of persons corporate or unincorporate.</p> <p>(5) The standard in this paragraph is met in relation to an individual who is the chair of the school if—</p> <p>(a) the individual—</p> <p>(i) is not barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and</p> <p>(ii) does not carry out work, or intend to carry out work, at the school in contravention of a prohibition order, an interim prohibition order, or any direction made under section 128 of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in either such direction; and</p> <p>(b) subject to sub-paragraphs (7) and (8), the Secretary of State makes the following checks relating to the individual—</p> <p>(i) where relevant to the individual, an enhanced criminal record check, countersigned by the Secretary of State where an application for such a check is made under section 113B(1) of the 1997 Act;</p>

(ii) checks confirming the individual’s **identity** and their **right to work** in the United Kingdom; and

(iii) in the case of an individual for whom, by reason of the individual living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish the individual’s suitability to work in a school, **such further checks** as the Secretary of State considers appropriate;

and, where an enhanced criminal record check is made, the Secretary of State obtains an enhanced criminal record certificate relating to the individual.

... ..

(8) In the case of a registered school—

(a) sub-paragraph 5(b) is met where the checks referred to in that sub-paragraph are completed before or as soon as practicable after the Chair of the school starts acting as such;

... ..

(9) In this paragraph [20] a reference to the Chair of the school is a reference to an individual who is the Chair of a body of persons corporate or unincorporated named as the proprietor of the school in the register or in an application to enter the school in the register and includes a reference to a similar officer.

349. Like individual proprietors, where the proprietor is a formally constituted board of governors, directors or trustees or a limited company, the chair is required to undergo checks via the DfE, including an enhanced DBS check counter-signed by the ‘Secretary of State’. This applies to the chair of the proprietorial body, not the chair of any local governing body appointed by the proprietorial body. (Note: as for individual proprietors that the DfE does not check for Disqualification from childcare so this must be undertaken by the school when it applies.) The checks for chairs are as for individual proprietors, as set out in the table above.

350. It is not a requirement to include chairs of the proprietorial body on the SCR as the checks are not done by the school.

351. The responsibility of the school is to inform the DfE of a change of chair so that the checks can be made in advance of appointment or as soon as practicable after appointment. Please see below for information about the process. Inspectors will reach a conclusion as to whether appropriate notice of changes has been given ‘as soon as practicable’, depending on the individual circumstances.

352. If inspectors identify that the relevant checks have not been carried out, apart from considerations of compliance, they may point schools to the following overview of the process. The DfE will provide schools with more detailed instructions on request.

How to obtain an enhanced DBS check countersigned by the Secretary of State

There are three steps schools must follow to obtain the enhanced DBS check, countersigned by the Secretary of State, for a new individual proprietor or chair.

(i) Firstly, an application form for an enhanced DBS check must be obtained by the school by telephoning the DBS helpline on: 03000 200 190. Schools must quote the DBS registered Organisation Name: Department for Education and Registered Body Number: 20881800002. It is important for schools to inform the DBS whether or not the individual to be checked will be a volunteer so that the DBS can determine whether the enhanced disclosure fee is payable. If a fee is payable the DBS will let the caller know the amount due.

- (ii) Secondly, the school will need to contact the Department, either by telephoning 01325 340405 or emailing: registration.enquiries@education.gov.uk, to explain that they are changing proprietor or chair and request the relevant form and instructions.
- (iii) The DfE form, the DBS check application form and the DBS fee if applicable, must be sent to the address below:

Independent Education and Boarding Team
Department for Education
Bishopsgate House
Feethams
Darlington
DL1 5QE
- (iv) The Department will then countersign the application and send both forms to the DBS. Once the DBS has processed the application, a copy of the DBS check is sent to the applicant in the post direct from the DBS. The Department has undertaken to comply with the DBS Code of Practice. Under the provisions of the Code, sensitive personal information must be handled and stored appropriately and must be kept for only as long as it is necessary. The Code is published on the DBS website.
- (v) The disclosure of a criminal record, or other information, will not bar a person from becoming a proprietor of an independent school unless the Secretary of State considers that the conviction renders them unsuitable. In making this decision the Secretary of State will consider the nature of the offence, how long ago the offence was committed, the person's age when the offence was committed and other factors which may be relevant.
- (vi) In any case where the information supplied by the DBS differs from that provided by the applicant, and is of significance, the applicant will be given the opportunity to explain the position. Anyone who believes that the information given in the disclosure is inaccurate, or relates to someone else with the same name, is able to appeal to the DBS who will investigate the position.

Paragraph 20 – Member of a body of persons, not including the chair

- (6) The standard in this paragraph is met in relation to an individual ('MB'), not being the Chair of the school, who is a member of a body of persons corporate or unincorporated named as the proprietor of the school in the register or in an application to enter the school in the register, if—
 - (a) MB—
 - (i) is not **barred** from regulated activity relating to children in accordance with section 3(2) of the 2006 Act where that individual is or will be engaging in activity which is regulated activity within the meaning of Part 1 of Schedule 4 to that Act; and
 - (ii) does not carry out work, or intend to carry out work, at the school in contravention of a **prohibition order**, an interim prohibition order, or any direction made under **section 128** of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in either such direction;
 - (b) subject to sub-paragraphs (7) to (8), the Chair of the school makes the following checks relating to MB—
 - (i) where relevant to the individual, an **enhanced criminal record check**;
 - (ii) checks confirming MB's **identity** and MB's **right to work** in the United Kingdom; and
 - (iii) where, by reason of MB's living or having lived outside the United Kingdom, obtaining an enhanced criminal record certificate is not sufficient to establish MB's suitability to

work in a school, such **further checks** as the Chair of the school considers appropriate, having regard to any guidance issued by the Secretary of State;

and, where an enhanced criminal record check is made, the Chair obtains an enhanced criminal record certificate relating to the individual; and

- (c) subject to sub-paragraph (8), where the Secretary of State makes a request for an enhanced criminal record check relating to MB countersigned by the Secretary of State to be made, such a check is made.

... ..

(8) In the case of a registered school –

... ..

- (b) sub-paragraph (6)(b) is met where the checks referred to in paragraph (b)(i) and (iii) are completed before or as soon as practicable after MB starts as an acting member of the body of persons corporate or unincorporated named in the register as the proprietor of the school; and

- (c) sub-paragraph 6(c) is met where the enhanced check is made as soon as practicable after the Secretary of State's request.

353. In relation to a trust, limited company or unincorporated body, the DfE carries out the checks on the chairperson and then the chair is responsible for ensuring that all other members of the proprietorial group have been subject to the following checks.

Recruitment checks over time – members of a proprietorial body, not including the chair

Date of appointment	Pre-1.9.03	1.9.03 to 30.4.07	1.5.07 to 31.8.10	1.9.10 to 9.9.12	10.9.12 to 4.1.15	5.1.15 to 11.8.15	12.8.15 to 5.9.16	5.9.16 to date
Barred list/List 99 check	X	✓	✓	✓	X (Note 1)	Yes if in regulated activity (current definition)	Yes if in regulated activity (current definition)	Yes if in regulated activity (current definition)
Enhanced disclosure	X	✓ (Note 2)	✓	✓	✓	✓ (Note 3)	✓	✓
Identity	X	X	✓	✓	✓	✓	✓	✓
Overseas checks, where appropriate	X	X	✓	✓	✓	✓	✓	✓ Including EEA check, if the person will teach.
Right to work in the UK	X	X	✓	✓	✓	✓	✓	✓
Prohibition from teaching						Yes if the person will carry out teaching work	Yes if the person will carry out teaching work	Yes if the person will carry out teaching work
Disqualification from childcare						From 27.2.15 (Note 4)	✓	✓
Prohibition from							✓ (Note 5)	✓

leadership and management								
<p>Note 1 From 10 September 2012, proprietorship in and of itself is not regulated activity and as such a barred list check is not required of proprietor simply by virtue of their position as proprietor. It is clear if the proprietor is also engaged in regulated activity in the school, for example in the case of those proprietors who are also the headteacher, or because their voluntary work as proprietor entails regular unsupervised to pupils, then a barred list check is required.</p> <p>Note 2 At the standard level unless the individual also had responsibility for regularly caring for, training, supervising or being in sole charge of children.</p> <p>Note 3 An enhanced DBS check is required 'where relevant' and it is always relevant for proprietors.</p> <p>Note 4 Required in having regard to <i>KCS/E</i> which incorporates Disqualification under the Childcare Act 2006. See note 163 above for an explanation these checks. Proprietors would be within scope of these regulations if they volunteer to work in relevant childcare on a regular basis of or are directly concerned with the day to day management of such provision. Gaps in checking are reported under regulation 7(a)&(b).</p> <p>Note 5 Required for proprietors appointed from 12th August 2015. See note 356 below for the scope of these checks.</p>								

354. All checks must be made in advance of appointment or as soon as practicable after appointment. Inspectors reach a conclusion as to whether later checks were undertaken 'as soon as practicable', depending on the individual circumstances.

355. Strictly speaking, all proprietors must have the right to work in the UK, including those who live and work overseas. If a proprietor normally resident overseas visits their school in England, they must have the right to work check in the usual way. Proprietors permanently resident overseas who never attend the school may not have the right to work in the UK; inspectors may take a view as to whether this is material in context, consulting the duty team via the ISI office as appropriate.

Prohibition from management of independent schools directions

356. From 12 August 2015, schools must check whether members of a proprietorial body appointed thereafter are subject to a section 128 direction. There are two ways to check for prohibition from management:

- for proprietors who are not in regulated activity, the prohibited list can only be accessed via the Teaching Regulation Agency using [Secure Access](#); this can be done whether or not the person is a teacher and without a teacher reference number;
- for proprietors who are in regulated activity, for example, a proprietor who is also the head or whose voluntary work as a proprietor gives them regular opportunity for contact with pupils in school, the check can either be done as above or via the DBS: a s128 direction would show on a DBS barred list check only. Schools must include on the DBS application form, within box 61, Position Applied for, 'Child Workforce Independent School'. This allows the DBS to confirm if a s128 direction has been made.

See [the letter of the DfE to all schools](#) dated May 2018 for more.

The single central register of appointments

Paragraph 21 – SCR contents for staff

- (1) The standard in this paragraph is met if the proprietor keeps a register which shows such of the information referred to in sub-paragraphs (3) to (7) as is applicable to the school in question.
- (2) The register referred to in sub-paragraph (1) may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.

- (3) The information referred to in this sub-paragraph is—
- (a) in relation to each member of staff ('S') appointed on or after 1st May 2007, whether—
 - (i) S's identity was checked;
 - (ii) a check was made to establish whether S is barred from regulated activity relating to children in accordance with section 3(2) of the 2006 Act;
 - (iii) a check was made to establish whether S is subject to any direction made under section 128 of the 2008 Act or section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in such a direction;
 - (iv) checks were made to ensure, where appropriate, that S had the relevant qualifications;
 - (v) an enhanced criminal record certificate was obtained in respect of S;
 - (vi) checks were made pursuant to paragraph 18(2)(d);
 - (vii) a check of S's right to work in the United Kingdom was made; and
 - (viii) checks were made pursuant to paragraph 18(2)(e), including the date on which each such check was completed or the certificate obtained; and
 - (b) in relation to each member of staff ('S'), whether a check was made to establish whether S is subject to a prohibition order or an interim prohibition order, including the date on which such check was completed.
- (4) The information referred to in this sub-paragraph is, in relation to each member of staff in post on 1st August 2007 who was appointed at any time before 1st May 2007, whether each check referred to in sub-paragraph (3) was made and whether an enhanced criminal record certificate was obtained, together with the date on which any check was completed or certificate obtained.

357. Paragraph 21 does not create a requirement to make checks but rather a requirement to record centrally whether or not certain checks have been made and, if so, the dates of those checks. Even if required checks have not been made, if this is accurately recorded, the standard may be met.
358. It must be possible for the school to print out the single central register (SCR) (paragraph 21(2)). For reasons of data protection legislation (not inspected by ISI), inspectors should remind schools to remove personal data if possible from the copy provided for inspection purposes, if it may be necessary for the inspection team to remove the copy from the site or retain it. DfE's position is that the bare list of names and dates contemplated by the ISSR is not considered to be 'personal data', though ISI would rather names were removed from the copy provided, leaving some other identifier to facilitate discussion, where necessary.
359. The dates to be recorded on the SCR are the dates when school receives the relevant information to inform their recruitment decision. The expectation is that the dates of all checks must, therefore, precede the start date for the relevant member of staff, although allowance can be made for delayed criminal record checks where appropriate precautions are taken. For example, if a school accepts a pre-existing DBS check under the three month rule, the date of the check would be the date the school sees the certificate, not the date printed on the certificate. As always, and particularly in view of the ambiguity on this point in paragraph 21, inspectors may take a view of the materiality of any misunderstandings around which date to record, where inspection evidence clearly indicates that rigorous processes are in place to ensure checks are undertaken in advance of appointments and recorded in a timely way.
360. The SCR must contain an entry for all current members of **staff** at the school as a minimum. If schools wish to cleanse the SCR of data when staff leave, it is recommended that this occurs at the end of each academic year. If schools do this, data removed should be archived and retained until at least after the next inspection. This must show the date of the following checks where applicable:

- identity;
- barred list/List 99 (date of receipt of DBS check unless a separate earlier barred list check was undertaken);
- professional qualifications;
- enhanced disclosure (or DBS Status Check);
- overseas checks (including EEA), where applicable;
- right to work in the UK;
- prohibition from teaching check;
- prohibition from management check.

Checks of:

- employment history (eg application form/CV);
- references;
- medical fitness; and
- disqualification from childcare (where applicable)

should be undertaken (**must** be undertaken in the case of medical checks and disqualification) but are not required to be recorded on the SCR. Many schools choose to include these checks on the SCR in order to have a record of all checks in one place. If this approach is not taken, evidence of completion of these checks should be sought on inspection through the checking of staff files.

361. With effect from 1 April 2015, there is no longer a general requirement to include all volunteers on the SCR but where checks are carried out on volunteers, in the absence of good reason, schools should record these on the SCR.

Paragraph 21 – SCR contents for supply staff

- (5) The information referred to in this sub-paragraph is, in relation to supply staff—
- (a) whether written notification has been received from the employment business that—
- (i) checks corresponding to those referred to in sub-paragraph (3)(a)(i) to (iv), (vi) and (vii) have been made to the extent relevant to any such person; and
 - (ii) an enhanced criminal record check has been made and that it or another employment business has obtained an enhanced criminal record certificate in response to such a check,
- together with the date the written notification that each such check was made, or certificate obtained, was received;
- (b) whether a check has been made in accordance with paragraph 19(2)(e) together with the date the check was completed; and
- (c) where written notification has been received from the employment business in accordance with a contract or other arrangements referred to in paragraph 19(2)(d) that it has obtained an enhanced criminal record certificate, whether the employment business supplied a copy of the certificate to the school.

362. The SCR must contain the following entries for **supply staff** to the extent applicable to the individual:
- date of receiving written notification from the supply agency that it has made checks of:

- identity;
 - Barred list/List 99;
 - qualifications;
 - overseas checks (including EEA), where applicable;
 - right to work in the UK;
 - prohibition from teaching;
 - date of written notification that it or another agency has received an enhanced disclosure, and the date of the disclosure;
 - whether the agency has supplied a copy of the enhanced criminal record certificate.
363. Schools must check the identity of supply staff themselves, in addition to the check of identity made by the agency. This is to ensure that the person presenting themselves for work is the same person on whom checks have been made. It is advisable, but not a requirement, to note this identity check on the SCR.
364. The following additional checks may also be noted on the SCR, if known and applicable, to enable a note of all checks to be recorded in one place
- identity checks on arrival;
 - CV/application form;
 - references;
 - medical fitness;
 - disqualification from childcare (where applicable).

Paragraph 21 – SCR content for proprietors

- (6) The information referred to in this sub-paragraph is, in relation to each member ('MB') of a body of persons named as the proprietor appointed on or after 1st May 2007, whether the checks referred to in paragraph 20(6)(b) were made, the date they were made and the date on which the resulting certificate was obtained.
- (7) The information referred to in this sub-paragraph is, in relation to each member of a body of persons named as the proprietor in post on 1st August 2007 who was appointed at any time before 1st May 2007—
- (a) whether each check referred to in sub-paragraph (6) was made; and
 - (b) whether an enhanced criminal record certificate was obtained, together with the date on which any check was completed or certificate obtained.

365. It is not a requirement to include either individual proprietors or the chair on the SCR as these are checked by the DfE.
366. The SCR must contain the following information for each member of the proprietorial body (other than the chair), where applicable:
- enhanced disclosure;
 - identity;
 - right to work in the UK;
 - overseas checks (including EEA), where applicable.

367. Schools must carry out checks for barring (where applicable), prohibition from teaching (where applicable) and prohibition from management, but the standard in paragraph 21 can be ‘met’ without including these on the SCR in relation to proprietors, because they are not listed in paragraph 20(6)(b). If the school does not include them on the SCR, inspectors will check underlying files. Inspectors may advise schools of the advantages of recording all checks on the SCR.

FURTHER GUIDANCE

Appointment of those falling outside the definitions of staff, supply staff and proprietors

368. Several categories of people fall outside the main regulations concerning appointment but may still need checks as part of having regard to *KCSIE*. The main groups are described below. Where individuals falling within the above groups are identified, inspectors will discuss the relevant procedures with the school and review a sample of records.

Staff not in regulated activity

369. Staff not in regulated activity are still staff and are now clearly covered by the regulations and *KCSIE*. Staff who are not in regulated activity do not require barred list checks. But other checks must still be undertaken as required by the standard and *KCSIE* likewise requires full use of applicable vetting checks including enhanced criminal records checks (without barred list information) if indicated by a risk assessment for new appointments.

Visiting speakers

370. The *Prevent* statutory guidance requires schools to have clear protocols for ensuring that any visiting speakers who might fall within the scope of the *Prevent* duty, whether invited by staff or pupils, are suitable and appropriately supervised. This means that even in cases where specific vetting checks are not prescribed by Part 4, for example, if speakers will not be left alone with pupils, schools must take action to ensure that they are suitable. The precise action is not prescribed. An internet search, for example, may sometimes be more instructive than formal vetting checks.

371. The interaction between the *Prevent* requirement to check speakers and *KCSIE* is likely to mean in practice that checks on visiting speakers will be recordable on the SCR either as checks on staff (eg if the individual is paid to attend regularly) or on volunteers. Failure to ensure the suitability of relevant visiting speakers is to be reported under paragraph 7(a) and (b).

Volunteers

372. There is no set formula for the vetting of volunteers, unless they are in regulated activity. The arrangements for volunteers will vary by individual and activity. The school must, therefore, assess whether the individual will be in regulated activity.

- When volunteers are supervised, they do not fall within the definition of regulated activity, and so barred list checks would not be available or required. This is so no matter how frequently or regularly an individual volunteers. The exception would be for volunteers doing personal care; personal care is always regulated activity.
- An unsupervised volunteer, whose presence is frequent and regular, is in regulated activity, and the school should obtain an enhanced DBS certificate with barred list information.

373. The flowchart in [Appendix 3](#) of this document sets out the requirements for new volunteers.

374. The DfE has provided guidance on when volunteers can be said to be ‘supervised’. This can be found in Annex F to *KCSIE*:

- there must be supervision by a person who is in regulated activity (eg a teacher or classroom assistant);
- the supervision must be regular and day to day; and

- the supervision must be ‘reasonable in all the circumstances to ensure the protection of children’ (taking into account: the age of the children, the number of children; whether or not other workers are helping to look after the children; the nature of the work; how vulnerable the children are; and the levels of supervision).

375. Even where a volunteer is not in regulated activity, they may still require other checks which come from having regard to DfE guidance, in particular *KCSIE* (paragraphs 157–162). In summary, the guidance is to make decisions about the need for additional, discretionary checks (particularly enhanced DBS certificates, without barring information), on the basis of a risk assessment in relation to the person, the work, the vulnerability of the children, other information known and the situation. These could include, for example: references, an informal interview, and checking with the school community for any concerns. From 3 September 2018, when *KCSIE* 2018 comes into force, details of these risk assessments for volunteers should be recorded.
376. ‘One-off’ volunteers, for day outings, school concerts and such would not require vetting checks, but they should not be unsupervised and/or must not undertake any kind of personal care.
377. Volunteers who were already in place when *KCSIE* was first published (April 2014) should have been checked as required at the time of appointment. Schools should consider obtaining new checks if there are concerns.

Contractors and employees of third-parties (other than supply agencies)

Principles

378. *KCSIE* contains sections both on ‘agency and third-party staff’ and on ‘contractors’, with different requirements for each. However, it is not directive as to when ‘third-party staff’ who are not from an employment business (temping/supply agency) are expected to be checked in line with ‘agency’ staff (supply) and when they may be subject to the less stringent regime for ‘contractor’ staff. Schools are permitted to exercise reasonable discretion in making that choice with the grey area in *KCSIE* indicative of a need for more stringent checking of some third-party staff, such as those who are long-term with access to children (eg some catering staff). The minimum for compliance purposes is that third party staff, other than those from supply agencies, are at least subject to the suitability checks for contractors. (For the requirements relating to supply staff, see above.)
379. Employers can only run direct vetting checks on their own employees. Each employer is, therefore, responsible for the vetting of their own staff. Where there is interaction between a school and the employees of another organisation or person, the school should ensure that relevant checks (see below) have been carried out. The usual way to ‘ensure’ is through obtaining written confirmation from the employer. This should be retained for inspection purposes. Schools are not required to include employees of other organisations (other than supply agencies) on their SCR, though they may choose to do so.
380. The relevant minimum checks always include:
- barred list check for those in regulated activity;
 - appropriate level of DBS check;
 - identity check on arrival;
 - any other role-specific checks, where applicable, eg disqualification from childcare.
381. Schools have discretion as to what further suitability checks or assurances they choose to seek from contractors/third parties in order to satisfy themselves of the safety of the children (eg DBS check at the standard level, references). A proportional risk-based approach is likely to be a reasonable exercise of discretion.
382. The appropriate level of DBS check will be as follows:

- if the person will be in regulated activity: enhanced DBS with barring information –
- if the person will not be in regulated activity but their work will provide them with opportunity for regular unsupervised contact with children: enhanced DBS –
- other situations: a DBS check at enhanced, standard or basic level can be considered if assessed to be indicated by the context.

383. Schools are not required to see DBS certificates for employees of contractors and third parties, with the exception of those from supply agencies. (See above for standards relating to supply staff.)

384. Inspectors may recognise a range of approaches to on-arrival identity checking as adequate. For example, it may be adequate for the identity of contractor employees who do not work with children to be checked on arrival by an appropriate responsible person also employed by the contractor, such as when a manager from a firm of kitchen contractors checks the identity of new contractor staff on arrival.

Visiting professionals

385. *KCSIE* advises that individuals working at the school or college but employed by third parties (for example, psychologists, nurses, dentists, and other public-sector staff) should have been checked by their employing organisation. It is not necessary for schools to see their DBS check (although sometimes it is offered), they need only obtain written confirmation that it and any other appropriate checks have been performed. Schools should check identity when an individual arrives to ensure imposters do not gain access to children.

386. The same rules apply to CCF instructors, sports referees and equivalent professionals supplied by a central body. Student teachers (unless employed direct by the school) will have been checked by the supplying university and so schools do not need to complete their own checks, except for identity.

Employees of contractors

387. Employees of contractors who are working at the school on a long-term basis (caterers, cleaners, et al) should, as a matter of risk assessment (weighing issues such as role, supervision, access to pupils, age and vulnerability of pupils) and of good practice, be subject to the same checks as school staff (see note 280 above), with written confirmation supplied by the employing organisation. For compliance purposes, the relevant minimum checks are as in note 380 et seq above. The school must check identity on arrival.

388. The DfE has advised that the written confirmation of checks by the contractor company should contain some detail in terms of names of employees, checks and dates; an un-particularised assertion that ‘we check all staff’ would not suffice.

389. Where the employees of shorter-term contractors such as builders will have access to areas where unsupervised contact with children is possible, the school should receive written confirmation from the company that the required DBS checks have been undertaken and check photographic identification on arrival at the school.

Self-employed contractors

390. Self-employed contractors should generally be checked by their professional associations. This is because it is not possible for self-employed people to obtain checks directly on their own account (except at the basic level), but professional associations usually assist with checks to enable their members to access work. If it cannot be confirmed in writing that the person has been checked by another organisation, the school should consider obtaining the DBS check itself.

391. Schools have discretion to make a reasonable decision about when to treat a self-employed worker as staff rather than as a contractor for the purpose of vetting checks. The inspection expectation is that if the person is in regulated activity in the school they should normally be treated as ‘staff’. This could have the effect that an invigilator who works for a week is treated as ‘staff’ but a plumber who does

likewise is treated as a contractor. For workers in this grey area, inspectors should respect the DfE policy intention to allow discretion to professionals in schools and probe, if necessary, whether a school has made a reasonable decision in context. A contemporaneous note of risk-assessed decision (eg a brief note on the SCR) can be helpful evidence of a reasonable approach, though not in itself a regulatory requirement.

392. Inspectors may wish to advise that the DBS update service is of particular assistance for self-employed workers and schools may wish to encourage self-employed workers to subscribe. If the self-employed person subscribes to the DBS update service, receiving schools can check identity, view the original certificate and check online for updated information.
393. Identity must be checked on arrival as usual.

Occasional/temporary contractors

394. Occasional and temporary contractors who are not involved in teaching/training etc or personal care are not in regulated activity and cannot be checked against the barred list. The exception is intended to enable schools to employ emergency workmen more easily but has been used also for professional musicians at Christmas, for example.
395. *KCSIE* advises that in the absence of statutory definitions for ‘occasional’ and ‘temporary’, it is for schools to determine when contractors are occasional or temporary and, therefore, whether or not they are working in regulated activity. If the school decides the workers are not in regulated activity, they will not be eligible for a barred list check but if their work gives them opportunity for regular contact with children, *KCSIE* stipulates that an enhanced DBS check without barred list information will be required. Where workers are not frequent or regular, schools should risk assess whether a DBS check is necessary and proceed accordingly

Supervision of contractors

396. It is recognised that it is not practicable normally for a school to provide supervision of contractors making emergency repairs by a qualified person at the same level as for volunteers under Annex F of *KCSIE*. *KCSIE* clarifies that while unchecked contractors should under no circumstances be allowed to work unsupervised, schools are responsible for determining the appropriate level of supervision depending on the circumstances. **Inspectors should ask schools how regularly they would check on the contractor staff involved.** Inspectors may advise that if supervision presents a difficulty, it is better if a school can find contractors where staff have been checked anyway.

Non-proprietor governors/advisors

397. Some schools with trustees or a governing board also have a committee of ‘local’ governors or advisors more closely related to the school. A case in point is the Girls’ Day School Trust (GDST). All members of the proprietorial body need DBS checks, but the members of the Local Governing Body are treated like any other volunteers. Checks are not required unless they have direct unsupervised contact with children or give rise to ‘concern’.

Adults who supervise children on work experience

398. *KCSIE* advises that barred list checks may be required for people supervising a child under 16 on a work experience placement where the conditions for regulated activity are met, although the duty would be on the employer to complete the check rather than the school.
399. Providers are not required to carry out enhanced Disclosure and Barring Services checks on employers/staff supervising young people aged 16 to 17 on work experience.

Young people on work experience

400. Young people on [work experience](#) do not usually require vetting checks themselves. If they are to work unpaid in another school or the early years sector, they may be treated as volunteers – see Appendix 3: for vetting requirements. As supervised volunteers, formal vetting checks are not required unless

the volunteer engages in regulated activity (such as personal care – eg toileting young children). Health care is regulated activity. If young people are to work in the health care sector, the work placement provider will be able to advise on the vetting requirements appropriate to the role.

Host families

401. Host families are often used to accommodate children on sports or language exchanges. When the arrangements are made direct between two families which accept responsibility, this can be considered a personal arrangement and outside the scope of regulated activity. However, where the family is paid, the arrangement to accommodate a child is not made by the child's family, or the school has the power to terminate the arrangement, it is unlikely to be a personal arrangement and could constitute regulated activity. In that instance, the school would commit an offence if it knowingly allowed a barred person to undertake regulated activity, and so a DBS check including barred list information should be obtained in respect of the responsible adult(s) and suitable records kept. This should be considered alongside any other available information. (The DfE has left the nature of other vetting checks to the discretion of the school.)
402. In addition, to the adult(s) engaging in regulated activity (the hosts) it would be lawful (but not a requirement) for schools to obtain enhanced DBS certificates for anyone aged 16 and over in the household where the child will be staying.
403. Risk assessments on volunteers are to be recorded – *KCSIE*.
404. Where children of one school (A) in the UK are hosted in homestays arranged by another (B) in the UK, school B would be the regulated activity provider with responsibility for vetting checks.
405. Schools will not be able to obtain checks on host families that may accommodate their pupils overseas but should work with partner schools to ensure that appropriate assurances are obtained before a visit concerning the arrangements that will be in place.
406. Whether or not the hosting activity is regulated in the particular instance or formal vetting checks are necessitated, schools should take reasonable steps to safeguard young people participating, for example, ensuring that pupils are seen by a member of staff every day while away from home, have access to a mobile phone with signal or know who to contact and how, if they have any concerns about their own safety, and providing parents and pupils with information about risks and protective measures in place to support their own decisions and actions.
407. Schools should notify the LA of UK homestays for children under 16 (or under 18 if the child has disabilities) which last 28 days or more, as this may constitute private fostering under the Children Act 1989.

Those who do not require vetting checks

408. It is not necessary to undertake vetting checks on: visitors to the head/other staff or those who have only brief contact with children in the presence of a teacher (although see guidance on protocols for visiting speakers in notes 370 and 371 above); visitors carrying out repairs or servicing equipment; post and delivery people; refuse collectors; pupils aged under 16 on work experience or similar; supervised volunteers (including pupils aged 16 and over on work experience in other schools) unless they undertake personal care; those on the school site when pupils are not present; and students (pupils) aged 18 or over studying as pupils. Individuals returning from maternity leave, sabbaticals or similar, where continuity of employment is maintained, do not need to be checked as new employees, but schools may choose to renew checks if they wish. Similarly, staff with 'zero-hours' contracts that have continuity of service between periods of work do not need to be re-checked on each occasion. (In this context, 'continuity of service' means that the individual has a contract of employment albeit one that does not provide them with certainty of hours. Such contracts are unlikely to be attractive to either party, school or zero-hours staff, for reasons such as tax, pensions and holiday entitlement, from the school's perspective, and lack of certainty of income from the staff perspective but are mentioned for completeness. It is beyond the remit of ISI to advise on these issues.)

IMPLEMENTATION

409. Where the register is not kept at the school but elsewhere (for example, in the offices of a body of trustees), arrangements must be made by the school for it to be inspected on the school premises, including on unannounced inspections.
410. The format for the register is not specified, though a table format is most commonly used. Other means include, for example, creating a page for each individual listing relevant personal information and the details of the checks carried out. Inspectors would apply the same considerations as for other formats. Schools may include additional information in their SCR, if they wish.
411. Inspectors should aim to check all recent appointments on the SCR though for larger schools sampling may be used if necessary. If so, the sample should include individuals from at least each regulated category (staff, supply staff - encompassing both teaching and non-teaching staff/supply - proprietors and volunteers, where checked) and other sub-groups that are relevant to the particular setting.
412. Inspectors will review a sample of underlying personnel records in each category against the SCR to confirm that a good system is in place for carrying out all necessary vetting checks in advance of appointment and that information is accurately recorded. Where omissions are identified within the sample, additional files may be scrutinised and questions asked to ascertain whether any omissions are appropriate to the appointment in view of, for example, the nature of the work which individual will undertake and the tests relating to regulated activity and 'relevance'. Interviews with staff involved in managing the recruitment process will also be used to gather evidence.
413. Retention of copies of criminal record certificates is not a requirement. From April 2014, *KCSIE* requires the retention of copies of identity documents, right to work, and qualifications. The Immigration (Restrictions on Employment) Order 2007 requires employers in England and Wales to check and retain copies of passports, or alternatively birth/adoption certificates, belonging to people appointed on or after 29 February 2008. Inspectors should be clear that wider document retention issues and compliance with data protection legislation are not within the inspection remit of ISI (with the exception of the reference to the Data Protection Act in the EYFS statutory framework). If appropriate, inspectors can point schools to the Information Commissioner's Office or Chartered Institute of Personnel and Development for guidance on more general document retention issues. A reasonable approach is to keep personnel files for six years after the person has left (in case any legal process requires them).
414. Where agency staff are used, any agency contracts may also be reviewed to check that they require production of each criminal record certificate.
415. Minor administrative errors do not constitute a material failure to meet requirements but should be corrected as soon as they are pointed out. Examples of minor administrative errors are failure to record one or two dates, individual entries which are illegible, one or two omissions where it is clear that the school has the evidence but has failed to transfer it to the SCR.
416. The SCR must contain an entry for all current staff, supply staff and proprietors and be kept up to date. In order to ensure that relevant records are readily available for inspection purposes, schools should be advised not to remove records for former workers until after at least the end of the school academic year and to retain (archive) any records removed until at least the next inspection.
417. Some schools renew criminal records checks at regular intervals (such as three years) for some staff who have not subscribed to the update service. This is not a legal requirement. Schools which do so should preserve the integrity of the original data at the time of the relevant appointment(s). Parallel entries should be made; the original entries should not be overwritten.
418. [Appendix 2](#) of this Commentary provides inspectors with an optional tool for checking a school's SCR and other vetting information. Schools are not required to use this format, though inspectors may advise of the advantages. For example, while there are benefits in including notes on the SCR, this is not a requirement; evidential notes could, for example, be kept in underlying files instead. Only the

matters listed above in notes 360, 362 and 366 are requirements for SCR content although the requirements for checking are wider.

FAQs – Impact of historic omissions

419. It is possible in the case of older appointments that evidence will not be available to support the production of a fully complete SCR. In these circumstances, inspectors will look to confirm that recent appointments have been correctly completed and recorded and that reasonable efforts have been made to complete previously omitted checks that were legally required at the time of appointment. Inspectors will usually focus on appointments since the previous inspection but are entitled to review the whole SCR. The latter course is most likely to be appropriate when there is a history of deficiencies in relation to Part 4 or in response to particular matters arising. Failings already identified in earlier inspection reports will not be reported again, unless they have not been corrected as far as it is possible to do so or have been repeated in later appointments.
420. In the event that older appointments have not been properly made, two conditions must be met for the school to be judged compliant.
- Firstly, the school must have identified the issues outside of the inspection process and taken appropriate steps to fill gaps so far as practicable. It is not necessary for school to fill gaps in relation to checks which were not required at the time of the relevant appointment. With respect to missing references where, for example, former colleagues may no longer be contactable, schools may use reasonable discretion to seek references from more recent sources. This may include, for example, making enquiries of current colleagues as to whether, having known and worked with the individual for some years they have any concerns about their suitability to work with children.
 - Secondly, there must be a clear track record in relation to recent appointments of properly completed checks demonstrating that the current recruitment process is effective and thorough.

Part 5 – Premises of and accommodation at schools

421. The premises requirements were updated in January 2013, with some of the previous prescription removed. Inspectors should apply the regulations and not go beyond them – in particular by not requiring facilities over and above those expected of a maintained school.
422. Any requirement that provision must be ‘[suitable](#)’ means that it must be suitable for the pupils in respect of whom it is provided, having regard to their ages, numbers and sex and any special requirements they may have. Thus, in the absence of specific ratios, inspection teams will need to make a judgement about suitability based on inspection evidence.
423. Advice on [Standards for school premises](#) has been published by the DfE and relevant information has been included below.

Paragraph 23 –Toilets and changing accommodation

- (1) Subject to sub-paragraph (2), the standard in this paragraph is met if the proprietor ensures that—
- (a) suitable toilet and washing facilities are provided for the sole use of pupils;
 - (b) separate toilet facilities for boys and girls aged 8 years or over are provided except where the toilet facility is provided in a room that can be secured from the inside and that is intended for use by one pupil at a time; and
 - (c) suitable changing accommodation and showers are provided for pupils aged 11 years or over at the start of the school year who receive physical education.
- (2) Where separate facilities are provided under sub-paragraph (1)(a) for pupils who are disabled, they may also be used by other pupils, staff, supply staff, volunteers and visitors, whether or not they are disabled.

424. The regulation does not set the minimum number of fittings to be provided in relation to the ages and numbers of pupils. Previously, the required ratios were one toilet and washbasin for every ten pupils under 5 years old, rising to one toilet and washbasin for every 20 pupils aged 5–11. For pupils over 11, one toilet per 20 pupils was considered sufficient. These ratios provide a helpful ‘rule of thumb’ but can be applied flexibly where there are no concerns apparent with the facilities available.
425. In general, toilet facilities need to be planned and designed so that hand-washing facilities are close by, the rooms containing them are adequately ventilated and lit, and they are located in areas around the school that provide easy access for pupils and allow for informal supervision by staff, without compromising pupils’ privacy.
426. It is permissible for inspection purposes for schools to allow pupils who are undergoing gender reassignment to use the toilets that accord with the gender role in which they identify, if they wish to do so. Whether this will be appropriate in all cases will be a sensitive judgement to be made by the school in discussion with relevant pupils and parents, as appropriate. Inspectors should be alert to whether the interests and safety of all affected pupils have been considered, whether the toilet accommodation affords sufficient privacy and, if appropriate, whether risk assessments are in place and action has been taken to mitigate any risks. The reporting inspector may refer to the duty team for support via the ISI office.
427. Unisex provision permitted under regulation 23(1)(b) should ensure the privacy of the occupant by, for example, having a full-height door.
428. Each toilet for disabled pupils needs to contain one toilet and one washbasin (and possibly a shower or other wash-down fitting) and have a lockable door opening directly onto a circulation space that is not a staircase. Where possible, the number and location of accessible toilets will be sufficient to ensure a reasonable travel distance for users that does not involve changing floor levels.

429. It is preferable for changing areas and showers for pupils to be in areas separated from toilets and designed to provide adequate privacy. Consideration may also be given to providing changing rooms, with or without showers, at junior schools for pupils who need to wear sports kit for physical education (including games), but this is not a requirement.
430. Toilets and washing facilities for staff may also be used by visitors. They should usually be separate from those provided for pupils, except where they are designed for use by those who are disabled.
431. The ‘spare toilet’ conundrum – the standard requires ‘suitable toilets for the sole use of pupils’. This is almost universally interpreted by modern schools as requiring all toilets to be designated to be exclusively for the use of either pupils or adults. So long as the toilets for the sole use of pupils are sufficient in number, locality, condition, safety and otherwise suitable in all respects, the existence of an historic ‘spare toilet’ or other toilets occasionally used by both adults and pupils may be seen as superfluous to the standard. Examples have included a toilet on a distant sports field or toilets in a school theatre jointly used for adult and child audience members during an evening production attended by families. The safety, condition and use of such toilets should be managed and risk assessed, as appropriate.

EYFS → Premises, note E65

Boarding → Boarding accommodation, note B40

Paragraph 24 – Medical accommodation

- (1) The standard in this paragraph is met if the proprietor ensures that suitable accommodation is provided in order to cater for the medical and therapy needs of pupils, including—
- (a) accommodation for the medical examination and treatment of pupils;
 - (b) accommodation for the short-term care of sick and injured pupils, which includes a washing facility and is near to a toilet facility; and
 - (c) where a school caters for pupils with complex needs, additional medical accommodation which caters for those needs.
- (2) The accommodation provided under sub-paragraphs (1)(a) and (b) may be used for other purposes (apart from teaching) provided it is always readily available to be used for the purposes set out in sub-paragraphs (1)(a) and (b).

432. The previous requirements for accommodation for pupils who are ill have been carried forward to the new regulations. Medical rooms must enable pupils that are ill or injured to be looked after appropriately, have a basin within the room and be near to a toilet. As a matter of best practice, the basin should be plumbed in and have running water; but a jug and basin may be adequate in the short term for a day school though inspectors should not encourage a minimalist approach to compliance. Schools in this situation would be expected to have realistic plans to improve their provision within a reasonable time scale.
433. Where appropriate, the facility should also enable therapy to be offered to those with special educational needs or disabilities who need it. This might involve assistance from visiting specialists, such as a physiotherapist or speech therapist.
434. Some therapy can take place in a teaching space or in a small quiet room, such as an office. The dedicated accommodation can be used for other purposes, except teaching, so long as it is readily available for medical use when needed. In special schools, a range of facilities will typically be required to suit different therapy options.

Boarding → NMS3 Boarders' health and well-being, note B16

Paragraph 25 – Maintenance

The standard in this paragraph is met if the proprietor ensures that the school premises and the accommodation and facilities provided therein are maintained to a standard such that, so far as is reasonably practicable, the health, safety and welfare of pupils are ensured.

435. This regulation is specific to maintaining school premises so that the health, safety and welfare needs of pupils are safeguarded. There is also a substantial amount of other health and safety legislation that applies to most buildings, including schools. Many of these aspects are covered in Part 3 (eg fire safety, health and safety policies), and this regulation is restricted to the premises aspects of health and safety. They cover a range of issues such as heating, ventilation, cleanliness, workstations, seating and welfare facilities.
436. Any identified concerns relating to security, classroom size and condition, kitchen facilities, general condition of premises and flooring, and other similar issues, will be reported under this regulation.
437. When dealing with potential security issues, inspectors must take account of the particular circumstances of the school. It is important to form a rounded view, taking all factors into consideration, such as the location of the school, its physical layout, the movements needed during the school day, the arrangements for receiving visitors, the other security measures, staff/pupil training, awareness of the senior management team and proprietor, the age of the pupils and so on. Push-button combination locks are considered a useful device for doors which have relatively low usage but are only one of many possibilities. Inspectors should raise any concerns but leave the solution to the school. It is not a requirement to have security designed to prevent an extraordinary tragedy.
438. No specific details of security concerns should be given in a report, though a generalised statement of 'some inadequate security arrangements' should be included where any such concerns are significant enough. If a school is found not to meet the standard on account of site security, a separate letter providing all necessary detail must be written to the head and proprietor, copied to ISI.

Boarding → Boarding accommodation, note B33

Paragraph 26 – Acoustics

The standard in this paragraph is met if the proprietor ensures that the acoustic conditions and sound insulation of each room or other space are suitable, having regard to the nature of the activities which normally take place therein.

439. The acoustic conditions of the premises should enable people to hear clearly, understand and concentrate on whatever activity they are involved in, and experience minimal disturbance from unwanted noise (such as from activities in adjacent areas, teaching equipment, ventilation fans or road traffic).
440. The regulation requires suitability to be in relation to the nature of the activities in the space, and so there will be higher expectations for music rooms, language teaching rooms, open-plan areas and any rooms where hearing-impaired pupils may be taught.

Paragraph 27 – Lighting

The standard in this paragraph is met if the proprietor ensures that—

- (a) the lighting in each room or other internal space is suitable, having regard to the nature of the activities which normally take place therein; and
- (b) external lighting is provided in order to ensure that people can safely enter and leave the school premises.

441. Adequate light levels need to be achieved to permit good visual communication, with a preference for daylight where possible. Over-bright conditions should be avoided with means to control daylight and sunlight, to avoid glare, excessive illuminance and summertime overheating.

442. External lighting is important for security and to ensure safe pedestrian movement after dark.

Boarding → NMS 5 Boarding accommodation, note B43

Paragraph 28 – Water supply

- (1) The standard in this paragraph is met if the proprietor ensures that—
 - (a) suitable drinking water facilities are provided;
 - (b) toilets and urinals have an adequate supply of cold water and washing facilities have an adequate supply of hot and cold water;
 - (c) cold water supplies that are suitable for drinking are clearly marked as such; and
 - (d) the temperature of hot water at the point of use does not pose a scalding risk to users.
- (2) The facilities provided under sub-paragraph (1)(a) will be suitable only if—
 - (a) they are readily accessible at all times when the premises are in use; and
 - (b) they are in a separate area from the toilet facilities.

443. Drinking water facilities need to be maintained in good working order and kept clean and with sufficient outlets clearly marked 'drinking water'. Tanked supplies can be difficult to maintain in good condition, and so it is generally preferable if drinking water supplies in schools can be connected directly to the cold-water main.

444. To avoid the risk of scalding, 43°C is generally the maximum temperature for hot water in baths and showers, and in all cases where the occupants are severely disabled. It is also good practice to limit hot-water supplies to washbasins in nursery and primary schools to 43°C.

445. Distribution temperatures and *legionella* controls need to comply with HSE guidance on managing *legionella* in hot and cold-water systems.

EYFS → Food and drink, note E54

Boarding → Provision and preparation of food and drinks, note B57

Paragraph 29 – Outdoor space

- (1) The standard in this paragraph is met if the proprietor ensures that suitable outdoor space is provided in order to enable—
 - (a) physical education to be provided to pupils in accordance with the school curriculum; and
 - (b) pupils to play outside.

446. 'Physical education' includes the playing of games. Schools will have a wide variety of arrangements for outdoor sports and break times. The regulation does not require the outdoor space to be adjacent to the school and, in some urban areas, it may be necessary to transport pupils between the school and playing fields. Outdoor space is also needed for informal play and socialising. Schools should make necessary consideration for safety, for example, arrangements for crossing roads or for increased supervision in areas accessible to the public, and inspectors should check that arrangements operate effectively in practice.

EYFS → Safety and suitability of premises, environment and equipment, note E63

Paragraph 30 – Boarding accommodation

The standard in this paragraph is met if the proprietor ensures that, where the school provides accommodation, regard is had to Standard 5 of the National Minimum Standards for Boarding Schools or, where applicable, Standard 5 of the National Minimum Standards for Residential Special Schools.

447. The NMS contain additional detailed premises requirements, and these are described separately in this Commentary.

Boarding → Boarding accommodation, note B33

Paragraph 31 – Definitions

For the purposes of this Part –

- (a) 'physical education' includes the playing of games;
- (b) any requirement that anything provided under this Part must be 'suitable' means that it must be suitable for the pupils in respect of whom it is provided, having regard to their ages, numbers and sex and any special requirements they may have; and
- (c) a pupil has 'special requirements' if the pupil has any needs arising from physical, medical, sensory, learning, emotional or behavioural difficulties which require provision which is additional to or different from that generally required by children of the same age in schools other than special school.

Part 6 – Provision of information

448. Certain information must be ‘provided’ or ‘made available’ to parents of pupils and prospective pupils meaning, parents of children who are already registered pupils or parents who might be interested in putting their child into the school. Both of these terms have a particular meaning under the regulations – summaries are included below and the full definition is set out in the glossary.

Provided:

- (a) Sending by email either the information/document or the internet address where it can be located, and making it available for inspection by the person in school; or
- (b) Sending the information/document to the person in hard copy.

Made available:

- (a) Putting the information/document on the school website, making parents of pupils and prospective pupils aware, and ensuring that the document is available for inspection by the person in school; or
- (b) Making parents of pupils and prospective pupils aware that they can request the information/document, and not charging for responding to such requests.

Paragraph 32 – Provision of information

- (1) The standard about the provision of information by the school is met if the proprietor ensures that—
 - (a) the information specified in sub-paragraph (2) is provided to parents of pupils and parents of prospective pupils and, on request, to the Chief Inspector, the Secretary of State or an independent inspectorate;
- (2) The information specified in this sub-paragraph is—
 - (a) the school’s address and telephone number and the name of the head teacher;
 - (b) either—
 - (i) where the proprietor is an individual, the proprietor’s full name, address for correspondence during both term-time and holidays and a telephone number or numbers on which the proprietor may be contacted, or
 - (ii) where the proprietor is a body of persons, the address and telephone number of its registered or principal office;
 - (c) where there is a governing body, the name and address for correspondence of its Chair; and
 - (d) a statement of the school’s ethos (including any religious ethos) and aims.

449. This information must be provided to parents of pupils and parents of prospective pupils, for example as part of a prospectus or information booklet.

450. Proprietors need not provide parents with their residential address and telephone number. They may instead provide parents with an address for correspondence (which may be the school address) during both term-time and holidays and a telephone number or numbers on which they may be contacted. The requirement for this to be ‘at all times’ has been removed: it is sufficient that the proprietor be available during normal working hours. Similarly, where there is a governing body the school must provide parents with an address for correspondence for the chair of the governing body, but this need not be the residential address.

451. There is no set format for statements of ethos and aims.

EYFS → Information for parents and carers, note E77

Boarding → Statement of Boarding Principles and Practice, note B7

- (1) (b) the information specified in sub-paragraph (3) is made available to parents of pupils and parents of prospective pupils and, on request, to the Chief Inspector, the Secretary of State or an independent inspectorate;
- (3) The information specified in this sub-paragraph is—
- (a) particulars of the school’s policy on and arrangements for admissions, misbehaviour and exclusions;
 - (b) particulars of educational and welfare provision for pupils with EHC plans and pupils for whom English is an additional language;
 - (c) particulars of the policy referred to in paragraph 2;
 - (d) particulars of arrangements for meeting the standards contained in paragraphs 9, 10, 11 and 13;
 - (e) particulars of the school’s academic performance during the preceding school year, including the results of any public examinations;
 - (f) details of the complaints procedure referred to in paragraph 33, and the number of complaints registered under the formal procedure during the preceding school year; and
 - (g) a copy of the report of any inspection carried out under sections 108 or 109 of the 2008 Act or section 87(1) of the 1989 Act.

452. The school must make the information available, in accordance with the set definition. Posting on the school website is sufficient to let parents know what is available to them. However, if a website is not available or used, the school must take reasonable steps to let parents of current and prospective pupils know what is available to them. This implies some kind of written list of the items. This might be given in the school prospectus or inserts to it, or in a letter to parents of current pupils. NB parents holding parental responsibility, even if not actually caring for the child, have a right to receive relevant information from the school in respect of any pertinent matter affecting the child, unless a court order indicates otherwise.

453. Parents cannot request particular information if they do not know what is available to them and, if they are not informed of any of the information, this represents a failure to meet the requirement. The information is:

- school’s policy on and arrangements for admissions, misbehaviour and exclusions;
- educational and welfare provision for pupils with statements and pupils for whom English is an additional language;
- curriculum policy;
- policy to promote good behaviour and set out sanctions;
- anti-bullying strategy, health and safety policy, first aid policy;
- academic performance during the preceding school year, including the results of any public examinations;
- complaints procedure, and the number of complaints registered under the formal procedure during the preceding school year; and

- a copy of the report of any inspections of the school or boarding provision.

454. The requirement to provide the number of staff at the school, including temporary staff, and a summary of their qualifications has been removed.

EYFS → Information for parents and carers, note E77

- (1) (c) particulars of the arrangements for meeting the standard contained in paragraph 7 are published on the school's internet website or, where no such website exists, are provided to parents on request;

455. The school's safeguarding policy must be available to the public on the website, unless the school does not have a website in which case it must be provided to parents if requested. Linked documents such as the staff code of conduct and the recruitment and selection policy and procedures are not required to be on the website, but the policy should signpost their existence and how they may be accessed.

- (1) (d) following an inspection under section 108 or 109 of the 2008 Act, a copy of the report of the inspection (if it has been sent to the proprietor) is published and maintained on the school's internet website, and provided to the parents of each registered pupil, by any date specified by the body who conducted the inspection;
- (1) (e) following an inspection under section 87(1) of the Children Act 1989, a copy of the report of the inspection (if it has been sent to the proprietor) is published and maintained on the school's internet website, and provided to the parents of each boarder;

456. Inspectors check with the school for a record or plan of report issue arrangements and, if practicable, ask parents if they received a copy of the previous report. If a school has a website, inspection reports back to the last report covering full compliance must now be published, once sent to the school by ISI.

EYFS → Note E80

- (1) (f) an annual written report of each registered pupil's progress and attainment in the main subject areas taught is provided to the parents of that registered pupil except that no report need be provided where the parent has agreed otherwise;

457. The annual report of progress and attainment must be 'provided' unless other arrangements have been agreed with the parent.

EYFS → EYFS Profile, Note 0

- (1) (g) any information reasonably requested in connection with an inspection under section 109 of the 2008 Act which is required for the purposes of the inspection is provided to the body conducting the inspection and that body is given access to the school's admission and attendance registers;

458. This regulation refers to the provision of information for inspection purposes.

- (1) (h) where a pupil wholly or partly funded by a local authority (except where funding is solely for free of charge early years provision in accordance with the duty contained in section 7 of the Childcare Act 2006) is registered at the school, an annual account of income received and

expenditure incurred by the school in respect of that pupil is provided to the local authority and, on request, to the Secretary of State;

- (1) (i) where a pupil with an EHC plan wholly or partly funded by a local authority or other body through public funds is registered at the school, such information as may reasonably be required for the purpose of the annual review of the EHC plan is provided to the responsible local authority.

459. If these regulations apply, inspectors should check with the school what information was provided.

460. LAs which fund pupils in independent schools through an EHC plan are entitled to be informed how those public funds have been spent. However, in the absence of any enquiry from the LA, as is common, inspectors may take a view about whether failure to supply the information is material in a particular context.

- (1) (j) particulars of any actions specified in sub-paragraph (4) are published and maintained on the school's website or, where no such website exists, are provided to parents.

(4) The action specified in this sub-paragraph is –

- (a) any decision by the Secretary of State to remove the school from the register under sections 100, 105, 112, 116, 119 or 123 of the 2008 Act;
- (b) any decision of the Secretary of State to impose a relevant restriction on the proprietor under section 116 of the 2008 Act;
- (c) any order of a justice of the peace under section 120 of the 2008 Act to remove the school from the register.

(5) For the purposes of sub-paragraph (4)(b), 'relevant restriction' has the meaning given in section 117(1) of the 2008 Act.

461. Schools must now publish online the details of certain regulatory actions. This will apply to a small number of schools and details will be provided by ISI or DfE when necessary.

Part 7 – Manner in which complaints are to be handled

Paragraph 33 – Complaints

The standard about the manner in which complaints are handled is met if the proprietor ensures that a complaints procedure is drawn up and effectively implemented which deals with the handling of complaints from parents of pupils and which—

COMPLAINTS POLICY CONTENT

462. WITH some adaptation to the school in question, the requirements in themselves are almost sufficient to constitute a complaints procedure.

463. The policy must deal with complaints from parents of pupils.

464. The policy must also include:

- details of the three-stage process (informal, formal and panel hearing), including clear time scales for each stage and in line with the particular requirements set out for each stage in the regulations;
- arrangements for record keeping;
- confidentiality of correspondence, statements and records.

465. The primary purpose and requirement of the policy is that it deals with complaints. The standard does not distinguish between ‘concerns’ and ‘complaints’. Changes to the wording made in January 2015 resolved this issue. Any matter about which a parent of a pupil is unhappy and seeks action by the school is now a complaint, and in the scope of the procedure, whatever the school labels it as.

466. Attempts to limit matters to be dealt with under a school complaints procedure can put policies at risk of not meeting the fundamental requirement of the standard, namely to deal with complaints. In such instances, inspectors will consider, for example, whether the relevant wording is there to provide helpful clarification to parents about the most appropriate dispute resolution process within the school procedures or whether the true purpose of such wording could be to limit the availability of the statutory complaints process to parents.

Exclusions

467. The complaints standard does not require exclusions to be covered by the complaints process. Schools should certainly have a process for exclusions and, if they wish to do so, they can use the same process for exclusion appeals as they do for the hearing of complaints, but this is not required by the standards. However, parents are entitled to the relevant information on the exclusions process under Part 6 and through other relevant policies (for example, behaviour and sanctions).

Three stage process

468. The standard requires a three-stage process. Some schools have been known to split one stage into two parts. While this is not specifically forbidden by the standard, when inspectors come across this they must consider carefully on the basis of all the evidence, including feedback from parents, whether it is used in practice to raise an additional barrier to parents escalating the complaint via the complaints process.

(a) is in writing;

(b) is made available to parents of pupils;

469. The policy will self-evidently be in writing. ‘[Made available](#)’ has a specific definition in the regulations.

470. The complaints process for independent schools is not required to be available to the world at large but only to ‘parents of pupils’, meaning current registered pupils. The procedure does not apply to parents of prospective pupils unless the procedure categorically says that it does, in which case it must be applied fairly to them as for registered pupils. The complaints procedure does apply to past pupils if the complaint was initially raised when the pupil was still registered, and it does not cover exclusions unless the school has indicated otherwise.

(c) sets out clear time scales for the management of a complaint;

471. The timescales must be clear from the point of view of the complainant, but words such as ‘normally’ are often used to introduce flexibility during school holiday periods. In such cases, deviation from the ‘normal’ timescales would usually need to be exceptional and convincingly explained. An alternative is setting different timescales for holidays, or a time scale established in working days. The timescale should set an ‘outside’ timescale for response and not only cover the timeframe for an acknowledgement or initial meeting.

(d) allows for a complaint to be made and considered initially on an informal basis;

(e) where the parent is not satisfied with the response to the complaint made in accordance with subparagraph (d), establishes a formal procedure for the complaint to be made in writing;

472. The informal and first formal stage of the complaints procedure do not specify who should receive the complaint and the school may identify individuals according to its circumstances.

473. Although all formal complaints will be made in writing, this does not mean that the formal stage is automatically triggered whenever a concern is expressed in writing, for example, by email. Complaints will usually only progress to the formal stage after first being considered at the preliminary stage and only then if the complainant intends to escalate a matter to the formal stage.

(f) where the parent is not satisfied with the response to the complaint made in accordance with subparagraph (e), makes provision for a hearing before a panel appointed by or on behalf of the proprietor and consisting of at least three people who were not directly involved in the matters detailed in the complaint;

(g) ensures that, where there is a panel hearing of a complaint, one panel member is independent of the management and running of the school;

(h) allows for a parent to attend and be accompanied at a panel hearing if they wish;

(i) provides for the panel to make findings and recommendations and stipulates that a copy of those findings and recommendations is—

(i) provided to the complainant and, where relevant, the person complained about; and

(ii) available for inspection on the school premises by the proprietor and the headteacher;

474. The DfE has given the following guidance on the identity of an independent panel member.

‘Our general view is that people who have held a position of responsibility and are used to scrutinising evidence and putting forward balanced arguments would be suitable. Examples of persons likely to be suitable are serving or retired business people, civil servants, heads or senior members of staff at other schools, people with a legal background and retired members of the Police Force might be considered.’

475. In the absence of a clear school policy to the contrary, the allowance in the standard for parents to attend and be accompanied at a hearing does not entitle parents to insist on legal representation at a hearing.
476. Where the parent is not satisfied with the school's response to their complaint at stage two and indicates a wish to continue to stage three, for compliance purposes a panel hearing should take place unless the parent later indicates that they are now satisfied and do not wish to proceed further. The panel hearing should, therefore, proceed notwithstanding that the parent may subsequently decide not to attend. If necessary, the panel should consider the parent's complaint in his/her absence and issue findings on the substance of the complaint thereby bringing the matter to a conclusion. The requirement for the panel to proceed does not prevent the school from accommodating parental availability for dates or considering comments concerning panel composition.
477. Inspectors may wish to advise schools to provide panels with clear terms of reference, a clear process, and a direction to reach a final decision within a specified timescale. These steps have been found to promote an effective process.

- (j) provides for a written record to be kept of all complaints that are made in accordance with subparagraph (e) and –
- (i) whether they are resolved following a formal procedure, or proceed to a panel hearing; and
 - (ii) action taken by the school as a result of these complaints (regardless of whether they are upheld); and
- (k) provides that correspondence, statements and records relating to individual complaints are to be kept confidential except where the Secretary of State or a body conducting an inspection under section 108 or 109 of the 2008 Act requests access to them.

478. The policy should contain these stipulations and, when implementing the policy, schools should be mindful of these provisions.
479. From January 2015, the written record of complaints is limited to all those made in writing under the **formal** part of the procedure. In relation to these complaints only, schools are required to record whether they are then resolved at that stage or proceed to a panel hearing. It is up to schools to determine whether or how they also wish to keep a record of informal complaints. Inspectors may advise that many proprietors wish to ensure records are kept, even of informal complaints, for management purposes to enable patterns of low-level concern to be monitored, though this is not a requirement.

EYFS → Complaints, note E78

Boarding → NMS 18 - Complaints, note B127

Part 8 – Quality of leadership in and management of schools

Paragraph 34 – Leadership and management

- (1) The standard about the quality of leadership and management is met if the proprietor ensures that persons with leadership and management responsibilities at the school—
- (a) demonstrate good skills and knowledge appropriate to their role so that the independent school standards are met consistently;
 - (b) fulfil their responsibilities effectively so that the independent school standards are met consistently; and
 - (c) actively promote the well-being of pupils.
- (2) For the purposes of paragraph (1)(c) ‘well-being’ means well-being within the meaning of section 10(2) of the Children Act 2004(a).

480. The leadership and management standard, introduced from January 2015, is outcomes based, the required outcome being that the other standards are consistently met and the well-being of pupils actively promoted. The evidence gathered by inspectors in relation to other standards will usually be sufficient to make the necessary inspection judgements under this heading. But other potentially relevant considerations might be whether leaders and managers access appropriate, effective support and training to keep up to date and whether suitable systems for performance management are in place.

481. The DfE has advised that **any** material failure to meet the independent school standards, should lead to consideration by inspectors of whether there has been a commensurate failing of leadership (including governance) and management. Materiality in this context is to be judged primarily by reference to the effect of the failing on pupils, or the potential for effect on pupils whether or not any detriment is evident at the time of the inspection. Safeguarding deficiencies, in particular, are likely to be considered ‘material’ unless purely administrative, and to lead to corresponding reporting in relation to Part 8. Inspectors should contact the duty team via the ISI office for advice where it appears that Part 8 may be engaged.

482. For illustrative purposes only, occasional mis-recording of vetting checks which have been carried out satisfactorily pre-appointment, as required, could potentially be considered to be immaterial administrative errors. So, too, could limited cases of deficiencies in policies which can be clarified or other errors which can be corrected by immediate remedial action, provided that practice already reflects the intention of the policy. In considering whether the standard in Part 8 is met, inspectors will not only consider current compliance but also the findings of previous inspection reports. In particular, where specific regulatory failings identified previously have not been remedied or have recurred, this will be taken into account with the likely result that the standard in Part 8 would not be met. Judgements of materiality would be made in the context of the frequency, severity or extent of the shortcomings and of all other relevant information pertaining to the school. For example, a case where the inspection identified (and supported the school in correcting) numerous policy shortcomings could be considered ‘material’. Omission to undertake one or more vetting checks when clearly required would be considered ‘material’ unless picked up by the school and rectified outside of inspection, or a system is in place to do so.

483. Paragraph 34(1)(c) makes clear the importance of leadership and management in ensuring pupils’ well-being. Well-being is defined with reference to the Children Act 2004, which lists the following factors:

- physical and mental health and emotional well-being;
- protection from harm and neglect;

- education, training and recreation;
- the contribution made by them to society;
- social and economic well-being.

484. The duty to actively promote the well-being of pupils underlines the safeguarding responsibilities of proprietors, working through their leadership and management team. The introduction of the broad 2004 definition into the independent school sector will entail schools taking the broadest approach to the promotion of well-being of pupils.
485. Inspectorates made judgements on aspects of leadership, management and governance for many years prior to the introduction of the regulatory standard. The introduction of a standard relating to leadership and management empowers the DfE to take appropriate regulatory action following a finding that the standard in Part 8 is 'not met'. A school is required to produce an action plan showing how the standards will be met. The action plan is required to show what the school intends to do to improve leadership and management to ensure that the school consistently meets all the standards.

THE EARLY YEARS FOUNDATION STAGE

This section must be read together with the rest of this Commentary, which gives advice on the regulatory requirements that all independent schools must meet.

- E1 The revised [statutory framework for the Early Years Foundation Stage](#) (EYFS Framework), effective from 3 April 2017, contains legal requirements for provision for children from birth to five.
- E2 Although all early years settings must comply with and/or have regard to all applicable parts of the EYFS Framework (depending on the use of “must” or “should”), on routine Regulatory Compliance and Focused Compliance inspections of **non-registered** settings, inspectors will focus on whether key requirements of the EYFS Framework, agreed with the DfE, are met. The wording of the key requirements applicable for non-registered settings is set out in the purple boxes in this section. On Regulatory Compliance and Focused Compliance Inspections of **registered** settings, all applicable requirements of the EYFS Framework are inspected.
- E3 This section of the Commentary sets out the text of only the sections of the EYFS Framework which are directly inspected in Regulatory Compliance or Focused Compliance Inspections of **non-registered** settings (i.e. the key requirements as agreed with the DfE). As with other parts of the Commentary, direct citations of the statutory requirements appear in purple boxes whilst ISI guidance and commentary appears on a white background. **For the complete text of all the requirements, inspectors and schools must refer to the [EYFS Framework](#).**

Which regulations apply?

- E4 The EYFS Framework applies to all children from birth until 31 August following their fifth birthday. There is overlap between the Independent School Standards (ISSR) and the regulatory requirements for EYFS. Please refer to the table below for guidance on which requirements apply:

Age range	EYFS Framework?	ISSR?
Under 2s	Yes	No
2	Yes	Yes – although for 2-year-olds the ISSR consist solely of the EYFS requirements.
3-5 (end of the academic year in which they turn 5)	Yes – although independent schools can exempt themselves from the learning and development requirements if they meet certain criteria by making a “notification of exemption” to the DfE. The safeguarding and welfare requirements of the EYFS Framework cannot be dis-applied.	Yes – except where the provision is a stand-alone nursery that is not part of a registered independent school.

- E5 Inspectors should ask non-registered EY settings whether they are exempt from the learning and development requirements of the EYFS, and if so for sight of the letter of confirmation from the DfE. (Exempt settings normally volunteer this information). Settings interested in seeking exemption can be directed to the [DfE guidance on exemptions for early years providers](#). Applications must be made to the DfE (not ISI).

NB: Registered settings cannot be exempt from the EYFS learning and development requirements and must meet the requirements as set out in Section 1 below. No provision can be exempted from the welfare requirements.

- E6 Previously, [Keeping Children Safe in Education](#) (KCSIE) was not specifically referred to in the EYFS framework. However, the EYFS Framework 2017 makes it clear that all schools must have regard to it.

Registration

- E7 Under the Childcare Act 2006, early years providers are generally required to be registered with Ofsted on the Early Years Register and/or the Childcare Register in addition to the usual DfE registration for schools. However, the rules are complex and there are a number of exceptions which apply to schools. Schools are advised to read the [Ofsted guidance on the extensive registration requirements](#) in full.

- E8 Schools must register on the Ofsted **Early Years Register** any provision run by the school for children aged under two. There is no exception for those who are 'rising two'. Even if there is only one child younger than two, registration is required. The Ofsted registration certificate must be displayed and shown to parents on request. If an inspector discovers provision for under-twos which is not Ofsted registered, they must report it to the ISI office immediately.

- E9 Schools do not need to register education or care provision on the **Early Years Register** that is:

- for children who are two or older and run by the school where at least one child in is a pupil; or
- childcare provision on the school site which is not run by the school. These settings must be registered by the childcare provider and will be inspected separately by Ofsted.

- E10 Schools must join the **Childcare Register** if they provide childcare for more than two hours a day for children aged 5-8 where none of the children are pupils – ie an out of school club not attended by any pupils.

Early Years Inspection – general notes

- E11 Where there is provision for young children at the school that is not inspected by ISI, the report must clearly state that this provision has not been inspected. The reporting inspector should ask to see a copy of the latest report for information purposes and should also check that neither school literature nor other publicity gives the impression that this provision is covered by ISI inspection.

- E12 Inspectors should consult the previous report (Ofsted and/or ISI) for any recommendations from the last inspection. Any **significant** changes in provision or quality should be noted in Regulatory Compliance / Focused Compliance reports relating to registered settings under "Overall effectiveness: the quality and standards of the early years provision".

- E13 If a setting is registered with Ofsted but it currently has no children, the inspectors should report on the setting as they find it, including matters such as the physical provision and the records kept. They should convey their findings as usual at the end of the inspection and the report should indicate clearly the circumstances of that inspection.

Section 1 – The learning and development requirements

1.3 There are **seven areas of learning and development** that must shape educational programmes in early years settings. All areas of learning and development are important and inter-connected. Three areas are particularly crucial for igniting children’s curiosity and enthusiasm for learning, and for building their capacity to learn, form relationships and thrive. These three areas, the prime areas, are:

- communication and language
- physical development
- personal, social and emotional development

1.4 Providers must also support children in four specific areas, through which the three prime areas are strengthened and applied. The specific areas are:

- literacy
- mathematics
- understanding the world
- expressive arts and design

1.5 Educational programmes must involve activities and experiences for children, as follows:

- **Communication and language** development involves giving children opportunities to experience a rich language environment; to develop their confidence and skills in expressing themselves; and to speak and listen in a range of situations
- **Physical development** involves providing opportunities for young children to be active and interactive; and to develop their co-ordination, control and movement. Children must also be helped to understand the importance of physical activity¹ and to make healthy choices in relation to food
- **Personal, social and emotional development** involves helping children to develop a positive sense of themselves, and others; to form positive relationships and develop respect for others; to develop social skills and learn how to manage their feelings; to understand appropriate behaviour in groups; and to have confidence in their own abilities
- **Literacy** development involves encouraging children to link sounds and letters to begin to read and write. Children must be given access to a wide range of reading materials (books, poems, and other written materials) to ignite their interest
- **Mathematics** involves providing children with opportunities to develop and improve their skills in counting, understanding and using numbers, calculating simple addition and subtraction problems; and to describe shapes, spaces and measure
- **Understanding the world** involves guiding children to make sense of their physical world and their community through opportunities to explore, observe and find out about people, places, technology and the environment

¹ The Chief Medical Office has published guidance on physical activity that providers may wish to refer to, which is available at: www.gov.uk/government/publications/uk-physical-activity-guidelines.

- **Expressive arts and design** involves enabling children to explore and play with a wide range of media and materials, as well as providing opportunities and encouragement for sharing their thoughts, ideas and feelings through a variety of activities in art, movement, dance, role-play, and design and technology

1.6 Practitioners must consider the individual needs, interests, and stage of development of each child in their care and must use this information to plan a challenging and enjoyable experience for each child in all of the areas of learning and development. [...] throughout the early years, if a child's progress in any prime area gives cause for concern, practitioners must discuss this with the child's parents and/or carers and agree how to support the child. Practitioners must consider whether a child may have a special educational need or disability which requires specialist support. They should link with, and help families to access, relevant services from other agencies as appropriate.
[Reported under ISSR 2(2)(f)]

- E14 Unless the setting has taken up the DfE exemption from the learning and development requirements, these must be followed in full. Schools are required to inform ISI if they take up the exemption and to provide on request the DfE acknowledgement of the school's notification.
- E15 Inspectors will check whether the setting offers a programme of activities which is appropriate to the children's educational needs. In determining whether an appropriate programme is in place, inspectors should be guided by the learning and development requirements above, though these are not inspected in detail as part of a Regulatory Compliance or Focussed Compliance Inspection.
- E16 For further guidance on the four specific areas referred to at 1.4, inspectors should refer to p11 – 12 of the EYFS Framework.
- E17 If the school has an EAL policy, it should include what reasonable steps the provider will take to provide opportunities for children to develop and use their home language in play and learning, to support their language development at home, and to ensure that they also have sufficient opportunities to learn and reach a good standard in English language.
- E18 As well as regular nursery provision, some schools offer before and after-school childcare. The ISI inspection team should observe some of this provision and satisfy itself that it is appropriate, safe and stimulating.

Section 2 – Assessment

Progress check at age two

2.3 When a child is aged between two and three, practitioners must review their progress, and provide parents and/or carers with a short written summary of their child's development in the prime areas. This progress check must identify the child's strengths, and any areas where the child's progress is less than expected. If there are significant emerging concerns, or an identified special educational need or disability, practitioners should develop a targeted plan to support the child's future learning and development involving parents and/or carers and other professionals (for example, the provider's special educational needs co-ordinator (SENCO) or health professionals) as appropriate.
[Reported under ISSR 3 and 4 as appropriate]

Assessment at the end of the EYFS – the Early Years Foundation Stage Profile

2.6. In the final term of the year in which the child reaches age five, and no later than 30 June in that term, the EYFS Profile must be completed for each child. The Profile provides parents and carers, practitioners and teachers with a well-rounded picture of a child’s knowledge, understanding and abilities, their progress against expected levels, and their readiness for Year 1. The Profile must reflect: ongoing observation; all relevant records held by the setting; discussions with parents and carers, and any other adults whom the teacher, parent or carer judges can offer a useful contribution. **[Reported under ISSR 3 and 4]**

- E19 The EYFS Profile must be completed in the specified timeframe unless the setting has taken up an exemption.
- E20 Each child’s level of development must be assessed against the early learning goals.
- E21 The results of the EYFS Profile must be shared with parents, with an explanation of when and how the Profile can be discussed with the teacher who completed it. Year 1 teachers must be given a copy of the Profile together with a short commentary on each child’s skills and abilities in relation to the three key characteristics of effective learning.
- E22 The EYFS Profile only needs to be reported to the local authority upon request.

Section 3 – The safeguarding and welfare requirements

3.4–3.8 Child protection

3.4 Providers must be alert to any issues of concern in the child’s life at home or elsewhere. Providers must have and implement a policy, and procedures, to safeguard children. These should be in line with the guidance and procedures of the relevant Local Safeguarding Children Board (LSCB). The safeguarding policy and procedures must include an explanation of the action to be taken when there are safeguarding concerns about a child and in the event of an allegation being made against a member of staff and cover the use of mobile phones and cameras in the setting.

3.5 A practitioner must be designated to take lead responsibility for safeguarding children in every setting. Childminders must take the lead responsibility themselves. The lead practitioner is responsible for liaison with local statutory children's services agencies, and with the LSCB. They must provide support, advice and guidance to any other staff on an on-going basis, and on any specific safeguarding issue as required. The lead practitioner must attend a child protection training course that enables them to identify, understand and respond appropriately to signs of possible abuse and neglect. **[Reported under ISSR 7]**

- E23 Schools do not need to have a separate safeguarding policy for their early years provision provided that the existing policy meets the additional early years requirements – ie as well as complying with the requirements set out in Part 3 of this Commentary, the policy should also contain:
- the policy on use of mobile phones and cameras. This does not equate to a requirement to ban their use, but entails recognising and managing the risks by a means appropriate to the setting;
 - the name and contact details of the practitioner designated to take lead responsibility for safeguarding children in the EYFS setting; and
 - if the setting is **registered**, a reference to the requirement for providers to inform Ofsted as soon as practicable and within 14 days at the latest, of allegations of serious harm or abuse by any

person living, working, or looking after children at the premises and the action taken in respect of such allegations.

E24 All staff should understand the school's safeguarding policy and procedures. Staff training should enable staff to identify signs of abuse and respond in a timely and appropriate way.

E25 From April 2017, the EYFS framework specifically requires schools to have regard to [KCSIE](#) and to the [Prevent duty guidance](#) in addition to [Working Together to Safeguard Children](#).

3.9–3.13 Suitable people

E26 Early years providers must obtain an enhanced criminal record check for every person over 16 (including unsupervised volunteers and supervised volunteers who provide personal care) who:

- works directly with the children;
- lives on the premises on which the childcare is provided;
- works on the premises on which the childcare is provided (unless the work is not in the part of the premises where the childcare takes place or is not at times when the children are present).

E27 Additional criminal records checks for anyone who has lived or worked abroad should also be carried out if applicable (see note 314 of this Commentary for further guidance).

E28 Schools must record information about staff qualifications and the identity checks and vetting processes that have been completed on the school SCR.

E29 Staff carrying out teaching work with pupils aged 3 and above in the EYFS must not have been prohibited from teaching. Schools must, therefore, check that an individual who will be carrying out teaching work with this age group does not have a prohibition order against them. This will apply to those supervising a setting and could apply to others if they are carrying out teaching work. Refer to note 326 above for more detailed information.

E30 The EYFS continues to include the provision that providers must not allow people whose suitability has not been checked, including through a criminal records check, to have unsupervised contact with children being cared for. Where a new member of staff starts work before the disclosure is available, the school must ensure that the person is supervised at all times, all other checks (including barred list) have been completed satisfactorily and inspectors ensure that recruitment procedures are otherwise robust.

3.14 Disqualification

3.14 A provider or a childcare worker may be disqualified from registration. In the event of the disqualification of a provider, the provider must not continue as an early years provider – nor be directly concerned in the management of such provision. Where a person is disqualified, the provider must not employ that person in connection with early years provision. Where an employer becomes aware of relevant information that may lead to disqualification of an employee, the provider must take appropriate action to ensure the safety of children. **[Reported under ISSR 7]**

E31 Registered providers must notify Ofsted of any significant event which is likely to affect the suitability of anyone coming into contact with children on the premises on a regular basis and must declare details of any order, determination, conviction, or other ground for disqualification from registration under regulations made under section 75 of the Childcare Act 2006. This should include the date, the body or court which made the order, determination or conviction, and the sentence (if any) imposed and a

certified copy of the relevant order (in relation to an order or conviction) in relation to anyone who lives in the same household as a member of staff.

E32 [Further guidance on disqualification](#) is available on the DfE website and at notes 163 to 181 above.

3.19 Staff taking medication/other substances

E33 Staff must seek medical advice if they are taking medication which may affect their ability to care for children, and any staff medication must be securely stored at all times.

3.20–3.27 Staff qualifications, training, support and skills / Key person

E34 Induction training for staff must include:

- help in understanding roles and responsibilities;
- information about emergency evacuation procedures;
- safeguarding and child protection;
- health and safety issues.

E35 Providers must support staff to undertake appropriate training and professional development to ensure they can continually improve the quality learning and development experiences they offer for children.

3.25 At least one person who has a current paediatric first aid (PFA) certificate must be on the premises and available at all times when children are present and must accompany children on outings. The certificate must be for a full course consistent with the criteria set out in Annex A [can be found on page 36 of the EYFS Framework]. [...]

PFA training must be renewed every three years and be relevant for workers caring for young children and where relevant, babies. Providers should take into account the number of children, staff and layout of premises to ensure that a paediatric first aider is able to respond to emergencies quickly. All newly qualified entrants to the early years workforce who have completed a level 2 and/or level 3 qualification on or after 30 June 2016, must also have either a full PFA or an emergency PFA certificate within three months of starting work in order to be included in the required staff:child ratios at level 2 or level 3 in an early years setting. Providers should display (or make available to parents) staff PFA certificates or a list of staff who have a current PFA certificate. **[Reported under ISSR 13]**

E36 At least one person with a current PFA certificate must be on the premises at all times when children are present and accompanying children on outings. **Note that a full or emergency PFA certificate is now a requirement for level 2/3 EY workers who qualified on or after 30 June 2016 in order to be included in the ratios.**

E37 It must be clear that the PFA course undertaken met the standards set out in Annex A of the EYFS Framework – i.e. a full or emergency PFA course delivered by a competent provider of regulated qualifications such as St John Ambulance, the British Red Cross and St Andrew’s First Aid.

E38 There is no requirement for staff with current PFA certificates to train for a new certificate until they need to be renewed. Paediatric first aiders should already have training in most, if not all of the subjects listed in Annex A of the EYFS. However, schools and other providers should consider whether specific training is needed for any subjects not included in previous courses.

E39 PFAs must be renewed every three years.

- E40 Effective supervision should be in place for staff who have contact with children and families. Supervision should enable staff to discuss issues and identify solutions as well as receive coaching to improve their personal effectiveness. Supervision should be an individual meeting between a manager and each staff member, including teaching assistants, in order to support their role as key persons working with children and their families. The frequency of meetings should be determined according to the needs of the families and the staff member supporting them. This is in addition to regular staff appraisals and other opportunities for staff training.
- E41 As previously, each child must be allocated a key person. This may be the class teacher, teaching assistant or other member of staff who can ensure that the child's care is tailored to meet his or her individual needs.

3.28–3.36 Staff:child ratios

3.28 Staffing arrangements must meet the needs of all children and ensure their safety. Providers must ensure that children are adequately supervised and decide how to deploy staff to ensure children's needs are met. Providers must inform parents and/or carers about staff deployment, and, when relevant and practical, aim to involve them in these decisions. Children must usually be within sight and hearing of staff and always within sight or hearing. **[Reported under ISSR 14]**

E42 Children aged three or over

- **Where the majority of pupils are five or over** or will be within the school year, the staffing ratio is **1:30** provided that a person with Qualified Teacher Status, Early Years Professional Status, Early Years Teacher Status or another suitable level 6 qualification is working directly with the children. Such a person may be an overseas qualified teacher or an 'instructor' (someone with the necessary qualifications or experience or both, where the governors/proprietor are satisfied with the qualifications or experience). In such Reception classes, there is no requirement, as previously proposed, for at least one other member of staff to hold a full and relevant level 3 qualification.
- **In other EYFS classes of children of three and above, if there is a person with Qualified Teacher Status** (or other suitable person as defined above) present, the ratio is **1:13**, and at least one other member of staff is required to hold a full and relevant level 3 qualification.
- **In other EYFS classes of children of three and above, if there is not a person with Qualified Teacher Status** (or other suitable person as defined above) present, the staffing ratio must be at least **1:8**. At least one member of staff must hold a full and relevant level 3 qualification and at least half of all other staff must hold a full and relevant level 2 qualification.

E43 **Children who are 'rising three'**. If those 'rising three' in their first term at the setting are in a separate group, the staffing ratio for two-year-olds applies. If they are in a mixed group with three-year-olds, they count as three-year-olds if they are in the minority, but as two-year-olds if they constitute the majority.

E44 **Children aged two in any early years group setting**. The staffing ratio must be at least 1:4. At least one member of staff must hold a full and relevant level 3 qualification and at least half of all other staff must hold a full and relevant level 2 qualification.

E45 **Children aged under two in any early years group setting**. The staffing ratio must be at least 1:3. At least one member of staff must hold a full and relevant level 3 qualification and have suitable experience of working with children under two. At least half of all other staff must hold a full and relevant level 2 qualification. At least half the staff must have received specific training in the care of babies. The member of staff in charge of the babies' room must have suitable experience of working with children under two years.

- E46 **Supervisors and managers.** All managers must hold at least a full and relevant level 3 qualification, and half of all other staff must hold a full and relevant level 2 qualification. A named deputy must be identified and be capable and qualified to take charge in the manager's absence.
- E47 **Break and lunchtime.** The EYFS Statutory Framework does not specify different ratios for these times but allows a reduction of direct staffing when the children are at rest or sleeping. This is with the proviso that all the relevant staff are in the vicinity and readily available. The school should undertake risk assessments to assess the level of supervision that is required taking account of the particular needs and vulnerabilities of children in the EYFS. Inspectors make a professional judgement on the level of supervision and raise an issue if they have concerns. Safety should always be the first priority. It is unlikely that it would be acceptable for lunch-time supervisors to hold no qualifications and for qualified staff to be distant from the EYFS children.
- E48 **Supervision of pupils in out-of-school care.** Where the provision is solely before/after-school care or holiday provision for children who normally attend Reception class (or older) during the school day, there must be sufficient staff as for a class of 30 children. It is for providers to determine how many staff are needed to ensure the safety and welfare of children and what qualifications, if any, the manager and/or staff should have, and inspectors will need to consider the effectiveness of the provision made. Practitioners should discuss with parents and/or carers the support they intend to offer. For older pupils from eight to seventeen, a risk assessment should be carried out, so that the staffing ratio is appropriate to circumstance.
- E49 Where children in Nursery or Reception classes attend school for longer than the school day or in the school holidays, in provision run directly by the governing body or the proprietor(s), it is recommended that the ratio of adults to children should be 1:8. At least one member of staff should hold a full and relevant level 3 qualification and half of all other staff should hold a full and relevant level 2 qualification.
- E50 Inspectors should check the ages of the children on roll and the staffing ratios in EY provision including before and after-school care runs and holiday clubs.

3.44–3.46 Health / Medicines

- E51 Schools must have a procedure that has been discussed with parents for responding to children who are ill or infectious.
- E52 Schools must also have a policy for the administration of medicines, which must include systems for keeping information up to date. Training must be provided to any staff for administration which requires medical or technical knowledge. Prescription medicines must not be administered unless prescribed by a doctor, dentist, nurse or pharmacist (and medicines containing aspirin must have been prescribed by a doctor).
- E53 Written permission must be obtained from parents for individual medicines to be administered. Where medicine is administered to a child, parents must be informed the same day or as soon as reasonably practicable.

3.47–3.49 Food and drink

- E54 Meals, snacks and drinks provided by the setting must be healthy, balanced and nutritious; an adequately equipped area should be provided for the preparation of food and drinks; and training in food hygiene must be provided for staff involved in preparing and handling food.
- E55 Dietary needs should be noted and acted upon.
- E56 Fresh drinking water must be available and accessible at all times.

E57 Registered providers must notify Ofsted of any food poisoning affecting two or more children cared for on the premises as soon as reasonably practicable and in any event within 14 days.

3.50–3.51 Accident or injury

E58 Schools should be aware of the duty to inform parents of any accident or injury sustained by the child on the same day, or as soon as reasonably practicable, and any first aid treatment given.

E59 A first-aid box must be accessible at all times and with appropriate content for use with children. An accident book or similar written record must be kept for accidents or injuries or first aid treatment.

E60 Registered providers must inform Ofsted and local child protection agencies of any serious accident, illness or injury.

3.52–3.53 Managing behaviour

E61 Providers are responsible for managing children’s behaviour in an appropriate way. Corporal punishment must not be used or threatened.

E62 Physical intervention may be used to avert immediate danger of personal injury. Any occasion on which physical intervention is used must be recorded and parents informed on the same day or as soon as reasonably practicable.

3.54–3.56 Safety and suitability of premises, environment and equipment / Smoking

E63 Providers must ensure that their premises, including overall floor space and outdoor spaces, are fit for purpose and suitable for the age of children cared for and the activities provided on the premises. Schools should ensure that their health and safety policy and arrangements include suitable provision for the EYFS, which comply with the requirements of health and safety legislation (including fire safety and hygiene requirements).

E64 Providers must not allow smoking in or on the premises when children are present or are about to be present.

3.57–3.63 Premises

E65 Schools must meet the following indoor space requirements:

- children under two years: 3.5 square metres per child;
- two-year-olds; 2.5 metres per child;
- children aged three to five years: 2.3 square metres per child.

E66 Providers must provide access to an outdoor play area or, if that is not possible, ensure that outdoor activities are planned and taken on a daily basis.

E67 Providers must follow their legal responsibilities under the Equality Act 2010 (for example, the provisions on reasonable adjustments).

E68 Sleeping children must be frequently checked. Except in childminding settings, there should be a separate baby room for children under the age of two.

E69 Schools must ensure that there are adequate toilets and hand basins available.

- E70 Providers must also ensure that there is an area where staff may talk to parents and/or carers confidentially, as well as an area in group settings for staff to take breaks away from areas being used by children.
- E71 Providers must only release children into the care of individuals who have been notified to the provider by the parent and must ensure that children do not leave the premises unsupervised. Providers must take all reasonable steps to prevent unauthorised persons entering the premises and have an agreed procedure for checking the identity of visitors. Providers must also consider what additional measures are necessary when children stay overnight.
- E72 Providers must carry the appropriate insurance (e.g. public liability insurance) to cover all premises from which they provide childcare or childminding.

3.64 Risk assessment

3.64 Providers must ensure that they take all reasonable steps to ensure staff and children in their care are not exposed to risks and must be able to demonstrate how they are managing risks. Providers must determine where it is helpful to make some written risk assessments in relation to specific issues, to inform staff practice, and to demonstrate how they are managing risks if asked by parents and/or carers or inspectors. Risk assessments should identify aspects of the environment that need to be checked on a regular basis, when and by whom those aspects will be checked, and how the risk will be removed or minimised. **[Reported under ISSR 16]**

3.65–3.66 Outings

3.65 Children must be kept safe while on outings. Providers must assess the risks or hazards which may arise for the children and must identify the steps to be taken to remove, minimise and manage those risks and hazards. The assessment must include consideration of adult to child ratios. The risk assessment does not necessarily need to be in writing; this is for providers to judge. **[Reported under ISSR 16]**

3.67 Special educational needs

- E73 All providers must have arrangements to support children with SEN or disabilities and are expected to identify a SENCO.
- E74 Providers who are funded by the local authority to deliver early education places must have regard to the *SEND Code 2015*. This here:
- the setting should plan for the four areas of need: communication and interaction, cognition and learning, social emotional and mental health, sensory and/or physical needs;
 - the setting should have a clear approach to identifying and responding to SEN;
 - in addition to the two specific points in the EYFS for formal assessment, there should be monitoring and review of progress throughout the early years;
 - where a child appears to be behind expected levels, a methodology is outlined in the *SEND Code 2015* for gathering information and seeking 'Early help' (see [Working Together](#)), if appropriate. The cycle of action: assess/plan/do/review, should be used to create a graduated response to needs;
 - guidelines are given for seeking external help of specialists or requesting an EHC assessment; and

- decisions to involve external specialists should be taken in discussion with parents, and parents should be informed if their child is receiving SEN support.

3.68–3.71 Information and records

E75 Inspectors should ensure that schools maintain confidentiality of records about staff and children, with access only available to those who have a right or a professional need to see them. Staff should be aware of these arrangements, but a formal policy is not required to meet the EYFS requirement. Parents and/or carers must be given access to all records about their child, provided that no relevant exemptions apply to their disclosure under the Data Protection Act. The retention period for records relating to individual children must be 'reasonable'. The three-year retention period for registers may be a useful rule of thumb.

3.72 Information about the child

E76 Information must be held about each child, comprising the full name; date of birth; name and address of every parent and/or carer who is known to the provider; information about any other person who has parental responsibility for the child; details of which parent(s) the child normally lives with; and emergency contact details for parents and/or carers.

3.73 Information for parents and carers

E77 Certain information must be made available to parents and/or carers:

- how the EYFS is being provided in the setting (including any alternative provision in the case of exemptions);
- how parents and carers can access more information about the EYFS;
- the range and type of activities and experiences provided for children;
- the daily routines of the setting;
- how parents and carers can share learning at home;
- how the setting supports children with SEN or disabilities;
- food and drinks provided for children;
- details of policies and procedures (copies must be made available on request) including the procedure in the event that a parent/carer fails to collect a child and the procedure for dealing with the circumstance of a child going missing at, or away from, the setting;
- staffing in the setting;
- the name and role of the child's key person and their role; and
- an emergency contact number for parents to use.

3.74–3.75 Complaints

3.74 Providers must put in place a written procedure for dealing with concerns and complaints from parents and/or carers, and must keep a written record of any complaints, and their outcome. [...] All providers must investigate written complaints relating to their fulfilment of the EYFS requirements and notify complainants of the outcome of the investigation within 28 days of having received the complaint. The record of complaints must be made available to Ofsted [...] on request.

3.75 Providers must make available to parents and/or carers details about how to contact Ofsted [...] if they believe the provider is not meeting the EYFS requirements. If providers become aware that they are to be inspected by Ofsted [...] they must notify parents and/or carers. After an inspection [...] providers must supply a copy of the report to parents and/or carers of children attending on a regular basis. **[Reported under ISSR 32(1)(d) and 33]**

E78 Additional requirements apply for EYFS settings beyond those which apply to the main school. Written complaints about the fulfilment of the EYFS requirements must be investigated and the complainant notified of the outcome of the investigation within 28 days. The record of complaints must be made available to Ofsted and ISI on request.

E79 Providers must make available details of how to contact Ofsted, and/or ISI, if parents believe the provider is not meeting the EYFS requirements.

E80 Schools must notify parents about an inspection once they have been notified. Once the final inspection report has been provided, it must be supplied to parents of children who attend the setting regularly.

3.76 Information about the provider

E81 The school must keep information about the name, home address and telephone number of:

- the provider (where this is an individual) and any other person living and employed on the premises; and
- anyone else who will regularly be in contact with the children attending the provision.

E82 The reference to persons 'employed' on the premises refers to people employed direct by the provider. The second bullet point could apply, for example, to employees of other employers, such as contractors, who have regular contact with children attending the provision. The names and addresses of such people should be supplied by their own employer. It is not necessary to keep names and addresses of occasional workers who are neither employees nor have regular contact with the children.

E83 Records must also be kept each day of the names of the children attending, their hours of attendance and the name of their key person.

E84 If the setting is registered with Ofsted, the registration certificate must be displayed at the setting.

3.77 Changes that must be notified to Ofsted

E85 Registered providers must notify Ofsted of a number of specified circumstances, usually within 14 days but preferably in advance of the changes taking place. For the full list, please refer to paragraph 3.77 of the EYFS Framework.

Additional points of guidance – transporting EYFS children

E86 The EYFS requirements on transport apply to arrangements within a setting or for taking children on outings. They do not make any reference to transporting children to and from a setting or school. Such arrangements do not fall within the definition of an outing and the welfare requirements relating to outings within the EYFS do not apply; for example, staff transporting children to and from a setting do not need to hold a first-aid qualification.

E87 If transport is a private arrangement made by parents with a third party, then it is the parents' responsibility to ensure they are satisfied with the arrangements and the setting should make it clear when its responsibility for the children transported in this way commences or ceases. This will usually be when the children are met from or delivered to the vehicle. In other cases, when the setting itself

makes the arrangements for transport to and from the school, although the requirements of the EYFS for outings do not apply, it is important for the setting to make it clear to parents the scope of the setting's responsibility for the transport arrangements, including the policies or procedures that apply during these times. This is likely to fall within the welfare requirements of the EYFS regarding the provision of information for parents.

- E88 Parents' perception of arrangements for care is likely to be that the same level of care is offered during transport as is provided for activities on the premises. Indeed, increased care may be expected, since transport could provide greater risks. So it is good practice for schools to carry out a risk assessment to judge the levels of supervision needed: for example, whether staff are suitable to be unsupervised with children (for example if they hold a DBS check); if a driver is to be unaccompanied and the circumstances in which this would be acceptable; and what the arrangements are for emergency help. It is also good practice to follow the requirements of the EYFS regarding the records kept about vehicles in which children are transported, including insurance details and a list of named drivers.

THE NATIONAL MINIMUM STANDARDS FOR BOARDING SCHOOLS

This section must be read together with the main part of this document, which gives advice on the regulatory requirements for all schools. This is because some of the information relevant to all-through schools is not repeated here unless it also appears directly in the requirements for boarding schools.

Interpretation and guidance for inspectors

- B1 The National Minimum Standards for Boarding Schools (NMS) sit alongside The Education (Independent School Standards) Regulations 2014 (ISSR), having been made under separate legislation (the Children Act 1989). They are incorporated into the ISSR mainly through ISSR paragraph 8, subject to a few exceptions given below. In many cases their requirements are explained by having regard to the same guidance as the ISSR. Legislation also applies to boarding in relation to health and safety, fire and planning regulations. The NMS apply in England to:
- all mainstream boarding schools, for all age groups of pupils up to 18 (including schools where all boarders are 16 or over), including any lodging arrangements organised by the school for residential pupils;
 - any pupils over the age of 18 on the roll of the school who live alongside those who are under 18; and
 - children accommodated at the school, other than pupils.
- B2 The definition of boarding includes pupils who are accommodated elsewhere under arrangements made by the school, whether or not the accommodation is in fact provided off-site by a third party, eg a host family or landlord. If the accommodation arrangements are made by the child's parent(s) or the parents' agents, the welfare responsibility rests with the parents. In all cases where accommodation is arranged or provided by the school, or agents for the school, the school is required to register as a boarding school with the DfE.
- B3 The NMS do not apply to:
- boarding schools which accommodate or arrange accommodation for any individual child for more than 295 days a year, or intend to do so – such schools are required to register as children's homes with Ofsted and are subject to the Children's Homes (England) Regulations 2015 and the National Minimum Standards for Children's Homes rather than the Standards in this document (see section 1(6) of the Care Standards Act 2000 for more detail);
 - Further Education Colleges funded by the Skills Funding Agency. A separate set of National Minimum Standards for FE colleges which accommodate under 18s will apply, rather than these Standards;
 - Residential Special Schools – there is a separate set of National Minimum Standards for these (not included in this Commentary); they are similar to the requirements for mainstream boarding schools, but more detailed (see [National Minimum Standards for Residential Special Schools](#));
 - instances where another organisation is responsible for the children, such as when the premises are let during the school holidays – in such cases, the organisation is responsible for their welfare rather than the school;
 - the children of staff working at the school and living in their household.
- B4 In the following purple boxes, the NMS are quoted verbatim and followed by guidance for inspection.

- B5 Note that, if any NMS is not met, in order to enable the DfE to take action under the ISSR, this will trigger non-compliance of one (or more) of the ISSR – usually Part 3 paragraph 8(a) and/or (b), unless otherwise stated.
- B6 Decisions about Tier 4 matters, and the impact of non-compliance with the NMS or ISSR on a school’s sponsor status, are the remit of UKVI and the Home Office, which together set and implement national policy in that area. Inspectors must report as they find and may not take these issues into consideration when reaching judgements about compliance. Schools should be advised to direct their comments and concerns about Tier 4 matters to UKVI.

NMS 1 – Statement of boarding principles and practice

1.1	A suitable statement of the school’s boarding principles and practice is available to parents and staff, is made known to boarders, and is seen to work in practice.
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- B7 The statement may be expressed as aims and objectives, principles on which boarding is based, or a statement of outcomes for boarders. Although it may be incorporated within wider whole-school principles and aims, there should be specific reference to the boarding experience provided by the school.
- B8 It is likely to appear on the school’s website and/or in a prospectus, parents’ handbook or joining instructions to new boarder parents. Staff should have reference to it within a boarding staff manual, or its house equivalent, and/or it can be displayed in the staff duty room. Boarders should have access to the statement on a house notice board and/or in a boarders’ handbook or planner/diary.
- B9 A finding that NMS 1 is ‘not met’ triggers a consequential failure of ISSR paragraph 8(b).

NMS 2 – Boarders’ induction and support

- B10 This Standard covers important areas of support for boarders.
- B11 A finding that NMS 2 is ‘not met’ triggers a consequential failure of ISSR paragraph 8(b).

2.1	There is an appropriate process of induction and guidance for new boarders.
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- B12 This should include provision for boarders joining at the natural start point for the school, as well as those joining higher year groups or at ‘non-standard’ start times. If not in writing, the school and individual housemasters/mistresses, or equivalent, should be able to give a convincing outline of the process used. During interviews, boarders should be able to corroborate the effectiveness of the induction process.
- B13 NMS 2.1 does not require a written induction process, but NMS Appendix 1, Document 22 requires schools to provide key written information for new boarders. This is likely, in practice, to provide evidence of the induction process itself. Many schools will provide the required information in the form of a pupil handbook or booklet, or a diary/planner. Schools may also operate some sort of ‘buddy’ system for new boarders, although this is also no longer a requirement. It is good practice for older boarders or house prefects to be involved in supporting new boarders.

2.2	Each boarder has a choice of staff to whom s/he can turn for personal guidance or for help with a personal problem.
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- B14 This again can be ascertained through interviews with boarders. Many schools operate a formal school-based or house-based tutorial system, but some simply expect boarders to approach a range of sympathetic adults as needed. It is reasonable to expect the school to have some sort of written procedure for boarders to resolve problems or concerns (possibly contained in a complaints policy

under Standard 17). The crucial issue is that boarders should be free to consult whichever adults they feel comfortable with and are able to indicate a range of approachable people.

2.3	The school identifies at least one person other than a parent, outside the staff of the school and those responsible for the leadership and governance of the school, who boarders may contact directly about personal problems or concerns at school. Boarders are informed who this person is, and how to contact them and they are easily accessible. Boarders are also provided with one or more appropriate helpline(s) or outside telephone numbers, including the Office of the Children’s Commissioner, to contact in case of problems or distress.
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- B15 The current guidance does not completely bar the use of an ‘independent listener’ who is paid by the school. The intention is to achieve a balance, such that the listener should be divorced as much as possible from the hierarchy of the school, but someone ‘who best can do the job’ [Children Act, Practice Guide]. The person in question must be able to exercise objectivity in responding to concerns and issues raised by boarders and, consequently, this restricts anyone who may be seen to be in a position where there could be a conflict of interests by virtue of previous or current roles or allegiances. However, there are circumstances where a professional counsellor may be commissioned to work within the school, whose role may encompass so-called independent listening. In these circumstances, an objectivity test should be applied to ensure the person can always act in the paramount interests of children and is not adversely influenced by any other factor. The contact details for the ‘independent listener’, together with those for agencies such as ChildLine, should be freely and easily available to boarders, and are likely to appear on a house noticeboard, near a public telephone and/or in a boarder’s handbook or planner. The Standard is met if the school/house provides the information clearly in an accessible form for boarders. It is good practice if boarders are regularly reminded of who the independent listener is, and how they may contact him/her. The contact numbers must include the Office of the Children’s Commissioner (freephone number 0800 528 0731) and email address (<http://www.childrenscommissioner.gov.uk>).

NMS 3 – Boarders’ health and well-being

- B16 This Standard covers the areas of medical and health care for boarders. There will be a variety of types of provision and so the individual standards need to be inspected in the context of the school – whether there is a fully equipped medical centre staffed by qualified nurses round the clock, or a non-resident matron with no nursing qualifications.
- B17 A finding that NMS 3 is ‘not met’ triggers a consequential failure of ISSR paragraph 8(b).

3.1	The school has and implements appropriate policies for the care of boarders who are unwell and ensures that the physical and mental health, and emotional wellbeing of boarders is promoted. These include first aid, care of those with chronic conditions and disabilities, dealing with medical emergencies and the use of household remedies.
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- B18 The school should have policies covering general health care, first aid, and storage and administration of both prescribed and non-prescription medication. These procedures should include the identification and treatment of boarders with specific chronic medical conditions such as asthma, diabetes, epilepsy and allergies, and provide boarding and other staff with clear treatment responses. Requirements for a satisfactory first-aid policy, including appropriate training, are outlined in note 222 above. It should be clear from school documentation what the arrangements are for overnight care of boarders who are ill, particularly at weekends, and whether this takes place in a central medical centre or in suitable accommodation in boarding houses.
- B19 Evidence for effective implementation comes from inspection of the medical or surgery areas of the house or medical centre, interviews with staff responsible for health care, and interviews with boarders about their experiences when ill.

- B20 Records should be inspected and, as a minimum, should involve medical history/consent forms for boarders (for medical/dental/optical treatment, first aid, and emergency hospital treatment), a list of boarders who self-medicate (together with appropriate assessment and control measures); a daily surgery 'log' and individual boarders' records of treatment/medication issued.
- B21 If boarding house staff are authorised to administer medication such as paracetamol, care should be taken to ensure that such distribution is carefully logged in the house, and appropriate communication takes place with the medical centre (if it exists) to monitor and co-ordinate such treatment.
- B22 Although not explicitly stated in this Standard, it is recommended that a school's health care policy should mention aspects of health education in areas like smoking, alcohol, drug misuse and sex education, as appropriate to boarders' ages. Such issues may well be covered through a personal, social, health and economic education (PSHE) programme.
- B23 In the context of the new Standard concerning promoting the emotional well-being of boarders, 'well-being' means well-being within the meaning of section 10(2) of the Children Act 2004. This is the same definition used in Part 8 of the ISSR. See note 484 above.
- B24 When considering their provision for the physical and mental health and emotional wellbeing of boarders, schools may wish to be aware of the most recent DfE advice and information which dovetails with *WT* and the SEND Code 2015. These are non-statutory documents meaning that schools are not required to have regard to them:
- [Mental health and behaviour in schools \(March 2016\)](#)
 - [Counselling in schools: a blue print for the future \(February 2016\)](#)
 - [Reasonable adjustments for disabled pupils 2015](#)
 - [Supporting pupils at school with medical conditions \(December 2015\)](#)

3.2	Suitable accommodation, including toilet and washing facilities, is provided in order to cater for the needs of boarding pupils who are sick or injured. The accommodation is adequately staffed by appropriately qualified personnel, adequately separated from other boarders and provides separate accommodation for male and female boarders where this is necessary.
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- B25 Regardless of whether the school has a central medical centre or sick bay (which should be separately inspected), inspectors should ascertain any arrangements whereby boarders who are unwell are kept in bed in the boarding house. Such arrangements should allow for patients to be looked after by a competent person, to summon help or assistance when needed and, if necessary for infection control, to have access to dedicated bathroom facilities. There need to be satisfactory arrangements for the overnight care of ill pupils kept in the house. Schools with separate medical centres should provide such facilities as a matter of course. If a medical centre is only open during weekdays, the school should be able to demonstrate that the arrangements in place provide an appropriate level of care to look after any ill boarders staying in school over the weekend.
- B26 Where male and female accommodation is separate, it is permissible for inspection purposes for schools to allow pupils who are undergoing gender reassignment to use the accommodation that accords with the gender role in which they identify, if they wish to do so. Whether this would be the best approach in a particular situation will be a sensitive judgement to be made by the school in discussion with relevant pupils and parents, as appropriate. Inspectors should be alert to whether the interests, safety and privacy of all affected boarders have been considered and, if appropriate, whether risk assessments and risk mitigation measures are in place. The reporting inspector may refer to the duty team via the ISI office for support and advice as usual.

3.3	In addition to any provision on site, boarders have access to local medical, dental, optometric and other specialist services or provision as necessary.
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B27 The school should confirm that boarders have ready access to nearby specialist medical, dental and optical services. Many schools have specific arrangements with a local surgery for prompt attention by a doctor, irrespective of whether a school doctor attends the school to carry out routine surgeries. It is no longer a requirement to provide access to both male and female doctors, although this is recommended. The previous Standards required that boarders be able to choose whether or not to be accompanied by staff when visiting a doctor's or dentist's surgery. This is recommended where boarders are competent to make such decisions for themselves.

3.4	All medication is safely and securely stored and proper records are kept of its administration. Prescribed medicines are given only to the boarder to whom they are prescribed. Boarders allowed to self-medicate are assessed as sufficiently responsible to do so.
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B28 This should be checked as part of the inspection of the medical centre and boarding house medical provision. The school should have a protocol for assessing boarders' competence to self-medicate and have satisfactory arrangements for them to store the medication safely. Prescribed medication (such as antibiotics) should not be used to maintain a bulk supply but should only be kept for the sole use of the relevant boarder.

3.5	The confidentiality and rights of boarders as patients are appropriately respected. This includes the right of a boarder deemed to be 'Gillick Competent' to give or withhold consent for his/her own treatment.
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B29 Gillick competence is used in medical law to decide whether a child (16 years or younger) is able to consent to his or her own medical treatment, without the need for parental permission or knowledge. A child is Gillick competent if he or she has 'sufficient understanding and intelligence to understand fully what is proposed'. Schools should be able to demonstrate that any decisions about whether a child is 'Gillick competent' have been made thoughtfully and recorded. Many schools will include an appropriate confidentiality statement on the medical consent form signed by parents. This Standard also includes the need for boarders to be granted appropriate privacy and dignity in matters like talking to staff about medical matters or undressing for medical examinations.

B30 Respecting confidentiality rights 'appropriately' does not mean always maintaining complete confidentiality at the behest of a Gillick competent child. It will not be appropriate to maintain confidentiality when there are reasonable grounds to believe that a child is or might be at risk of significant harm, such as abuse or neglect. The referral route for concerns, to access advice for the school and support for the child, would be to the local authority children's social services and/or the police, in line with local procedures. Schools should refer to [Information Sharing, Advice for practitioners](#) providing safeguarding services to children, young people, parents and carers (2018) and [What to do if you're worried a child is being abused, Advice for practitioners](#) (March 2015) for further advice.

NMS 4 – Contact with parents/carers

4.1	Boarders can contact their parents/carers and families in private and schools facilitate this where necessary. This does not prevent schools from operating proportionate systems to monitor and control the use of electronic communications in order to detect abuse, bullying or unsafe practice by boarders.
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B31 There is no longer a specific requirement to provide a landline telephone, although schools usually do so as an additional means for boarders to contact home in case alternative methods of contact are not available. Such provision should be accessible at reasonable times by boarders and provide appropriate privacy. If such facilities are not provided, schools/houses should demonstrate that reasonable arrangements are in place for boarders to contact parents. Many boarders may have personal mobile phones for this purpose, and their use should be permitted for a reasonably large

part of a boarder's free time. It is reasonable, particularly for younger boarders, for a school to limit their use in the evening, and even to collect and keep them securely overnight. Due flexibility should be granted to overseas boarders whose home is several time zones distant. Schools may also permit boarders to contact home by email or through the internet. Schools should have a suitable policy on preventing misuse of electronic communication systems and countering cyber-bullying under Standard 12.

B32 A finding that NMS 4 is 'not met' triggers a consequential failure of ISSR paragraph 8(b).

NMS 5 – Boarding accommodation

B33 This Standard covers the provision and quality of the boarding accommodation, not only within boarding houses but also in any other lodgings or accommodation arranged by the school.

B34 A school should be asked to justify any provision of accommodation in houses that is significantly poorer than other houses. The standard of accommodation across boarding houses should thus be of a broadly similar standard, as appropriate to boarders' age and other needs. This Standard does not prevent a school carrying out a rolling programme of repairs and improvements to accommodation over a number of years. Where it is not practical to provide accommodation of a broadly similar standard throughout the school, for example, because of physical constraints or planning restrictions, all accommodation must nevertheless at least be compliant with this Standard.

B35 A finding that NMS 5 is 'not met' triggers a consequential failure of ISSR Part 5, paragraph 30.

5.1	Suitable sleeping accommodation is provided for boarders. It is well organised and managed with risk assessments undertaken and findings acted upon to reduce risk for all boarders. Where pupils are aged 8 years or over, sleeping accommodation for boys is separate from sleeping accommodation for girls.
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B36 The current regulations for school premises no longer set out specific numerical standards to be met, so issues such as overcrowding in dormitories should be a matter for reasonable professional judgement for the school, taking into account the ages, gender and needs of the boarders accommodated. The boarders' own views of the suitability of their accommodation should, therefore, be given due weight. As a rough (non-statutory) guide, the old regulations set the following requirements:

- if the school has both boy and girl boarders, the sleeping accommodation must be such that that no pupil aged eight or above sleeps in the same room as a pupil of the opposite sex;
- the floor area of a dormitory must be no less than 1.6m² plus 4.2m² for each boarder, and the distance between any two beds must not be less than 0.9m;
- a cubicle for a single pupil must have its own window and a floor area of no less than 5.0m²;
- a bedroom for a single pupil must have a floor area not less than 6.0m².

B37 The requirement to carry out risk assessment of sleeping accommodation is typically included in a general assessment of risk in each boarding house. Risk assessments should cover not only physical risks in dormitories and bedrooms (broken windows and fittings, window restraints, ventilation etc) but also consider aspects affecting boarders' welfare, such as overcrowding, mixed-age usage, supervision, potential for unchecked bullying, access to staff and to bathrooms/toilets and so on.

B38 The standard imposed by 5.1 ostensibly does not cater for transgender children. It is permissible for inspection purposes for schools to allow pupils who are undergoing gender reassignment to use the accommodation that accords with the gender role in which they identify, if they wish to do so. Whether this is the appropriate decision in the case of particular pupils or accommodation will be a sensitive judgement to be made by the school in discussion with relevant pupils and parents, as appropriate. Inspectors should be alert to whether the interests, safety and privacy of all affected

boarders have been considered and, if appropriate, risk assessments put in place. The reporting inspector may refer to the duty team via the ISI office for support and advice as usual.

5.2	Suitable living accommodation is provided for boarders for the purposes of organised and private study outside school hours and for social purposes
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B39 It is acceptable for younger boarders to do their homework in a nearby classroom or other communal space, but questions should be asked to ascertain where they might be able to work quietly outside the designated 'prep' time if they so wished. Older boarders are likely to have their own desk space in a study or bed-sit. Similarly, they can be asked about any alternative venue for private study at other times. Most schools make internet access available to boarders during the evenings, but this is not a specific requirement. Provision of common rooms and games rooms should be sufficient to cater for the number and ages of boarders in the house.

5.3	Suitable toilet and washing facilities are provided for boarders, which are reasonably accessible from the sleeping accommodation. Separate toilet facilities are provided for boys and girls unless each toilet facility is provided in a separate room intended for use by one pupil at a time, the door to which is capable of being secured from inside. Toilet and washing facilities provide appropriate privacy for boarders.
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B40 It is reasonable to request that a school provide a summary of the numbers of each type of bathroom item by house, so that any significant under-provision of WCs/urinals, baths/showers and washbasins can be identified. The requirements of the original Standards for hand-washing provision (hot water, soap and drying facilities) adjacent to every WC or urinal should be considered as a requirement for basic hygiene. WCs should be distributed around the house to provide reasonable access by day and night. As a general (non-statutory) guide, the old school premises regulations and the original Standards required the following:

- 1 WC for every 5 boarders (urinals for boys may be provided for up to two-thirds of the required number of WCs);
- at least 1 wash basin for:
- every three of the first 60 boarders;
- every 4 of the next 40 boarders;
- every further 5 boarders.
- at least 1 bath or shower for every 10 boarders (the majority being showers).

B41 Although these ratios are no longer requirements, if provision is below the calculated number then appropriate investigation should ensure that boarders are happy with what is in place, and the school should be able to give good reason for the facilities provided.

B42 It is permissible for inspection purposes for schools to allow pupils who are undergoing gender reassignment to use the accommodation that accords with the gender role in which they identify, if they wish to do so. Whether this is the appropriate decision in the case of particular pupils or accommodation will be a sensitive judgement to be made by the school in discussion with relevant pupils and parents as appropriate. Inspectors should be alert to whether the interests and safety of all affected boarders have been considered and, if appropriate, risk assessments put in place. The reporting inspector may refer to the duty team via the ISI office for support and advice as usual.

5.4	Boarding houses and other accommodation provided for boarders is appropriately lit, heated and ventilated, cleaned and maintained, and reasonable adjustments are made to provide adequate accessible accommodation for any boarders with restricted mobility
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B43 This has to be established by observation and professional judgement and following up any complaints boarders might have about the accommodation provided in the house.

5.5	Accommodation is suitably furnished and of sufficient size for the number, needs and ages of boarders accommodated, with appropriate protection and separation between genders, age groups and accommodation for adults. Bedding is clean and suitable and is sufficiently warm.
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B44 See above for the application of space standards and potential over-crowding. Resident staff should not have to share boarders' kitchen and bathroom facilities. Appropriate separation by gender of sleeping and bathroom areas typically entails complete separation, while that between different ages is largely achieved by the natural staggering of access to showers: for example, by different bedtimes. Where uncommon circumstances advocate a different approach to separation by gender (such as transgender issues) inspectors should look for a risk-assessed, sensitive approach which ensures the appropriate protection of all boarders. Inspectors should contact the ISI head office for support, if necessary. Accommodation in dormitories of widely differing ages is undesirable because of the difficulty of achieving different 'lights-out' times and resultant perceived inequality by boarders. The original Standards indicated that double bunks should only exceptionally be used for boarders above Year 8. If so used, they should not be a source of overcrowding, and boarders should be satisfied with their use.

5.6	Boarders can personalise an area of their accommodation with suitable posters and personal items if they wish.
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B45 This could either be around boarders' sleeping space or their daytime work space, if they have a dedicated desk.

5.7	Boarding accommodation is reserved for the use of those children designated to use it and is protected from access by unauthorised persons. Any use of school facilities by individuals or groups does not allow members of the public (including members of organised groups using school facilities) substantial and unsupervised access to pupils, or to boarding accommodation while occupied by pupils.
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B46 This should be raised during interviews with boarding staff and will involve discussion about visiting arrangements for boarders of both genders from other houses, as well as visitors from outside the school. It is no longer appropriate for visiting teams to change in boarders' dormitories. If school-age visiting teams use school or house changing accommodation, then the school should provide convincing evidence of adequate security and supervision. The school should also be able to provide appropriate risk assessments with effective implementation to manage the use of facilities such as sports halls, gyms, swimming pools and theatres by outside persons at times when boarders are present on the school site.

B47 Use of other school facilities by outside visitors is largely addressed under Standards 6.1 and 14.4.

5.8	Any use of surveillance equipment (e.g. CCTV cameras) or patrolling of school buildings or grounds for security purposes does not intrude unreasonably on children's privacy.
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B48 Any such arrangements should be discussed with the school. When it is used by the school, closed circuit television (CCTV) surveillance should cover the external doors to buildings and not the rooms and corridors used by boarders. The school should be able to justify the use of surveillance equipment and explain how the captured information is monitored, stored and disposed of. If the school employs the services of its own or contracted security personnel, similar questions should be asked about procedures and routines. External security staff should undergo appropriate vetting and background checks, particularly if they are patrolling the campus before boarders go to bed.

NMS 6 – Safety of boarders

6.1	The school ensures compliance with relevant health and safety laws by drawing up and effectively implementing a written health and safety policy.
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B49 The requirement is self-evident and further guidance is available earlier in this Commentary under Welfare, Health and Safety. Inspectors will also use the judgements under 6.2 and ISSR Part 5 when judging compliance and implementation of the policy.

B50 A finding that NMS 6 is ‘not met’ triggers a consequential failure of ISSR paragraph 8(b) The standard in ISSR Part 3, paragraph 11 may also be ‘not met’ if there is a parallel failure within education provision (including where education and care provision are inseparable).

6.2	The school premises, accommodation and facilities provided therein are maintained to a standard such that, so far as is reasonably practicable, the health, safety and welfare of pupils are ensured.
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B51 Again, refer to guidance under Welfare, Health and Safety, and judgements made under NMS 5.

B52 A finding that NMS 6 is ‘not met’ triggers a consequential failure of ISSR paragraph 8(b). The standard in ISSR Part 5, paragraph 25 may also be ‘not met’ if there is a parallel failure within education provision (including where education and care provision are inseparable).

6.3	The school ensures that the welfare of pupils at the school is safeguarded and promoted by the drawing up and effective implementation of a written risk assessment policy and appropriate action is taken to reduce risks that are identified.
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B53 A finding of ‘not met’ in relation to NMS 6.3 triggers a consequential failure of ISSR Part 3 paragraph 8(b). ISSR Part 3, paragraph 16 may also be ‘not met’ if there is a parallel failure within education provision (including where education and care provision are inseparable).

NMS 7 – Fire precautions and drills

7.1	The school complies with the Regulatory Reform (Fire Safety) Order 2005.
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B54 The same requirements apply as for day schools under the ISSR, Part 3, paragraph 13. Further information is included from note 213 onwards.

B55 A finding of ‘not met’ in relation to NMS 7 triggers a consequential failure of ISSR Part 3 paragraph 8(b). ISSR Part 3, paragraph 13 may also be ‘not met’ if there is a parallel failure within education provision (including where education and care provision are inseparable).

7.2	In addition, fire drills are regularly (at least once per term) carried out in ‘boarding time’.
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B56 ‘Boarding time’ refers to any time outside the normal school day, after lessons and formal activity periods cease. Fire drills should be appropriately logged, and such records inspected for the frequency and timing of fire drills. Houses should include occasional drills during the time when (most) boarders are asleep, although failure to do this would not necessarily indicate non-compliance. Boarders could be asked about the procedure, and staff asked about the arrangements for weekly and flexi-boarders, or pupils who arrive mid-term.

NMS 8 – Provision and preparation of food and drinks

B57 This Standard covers the provision and quality of food for boarders, whether centrally organised or house-based. A finding that the standard in NMS 8 is ‘not met’ triggers a consequential failure of ISSR Part 3 paragraph 8 (b).

8.1	All boarders, including those with special dietary, medical or religious needs, are provided with meals which are adequate in nutrition, quantity, quality, choice and variety.
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B58 The requirement for NMS 8.1 may involve a combination of central feeding as well as house-based catering arrangements. It would be expected that the range, choice and variety of food may be greater within a central cafeteria-style provision, but there should be a similar quality and an appropriate element of choice within house-based catering arrangements, as well as provision for vegetarian and other specialist diets. A sample menu for a week should provide evidence for a variety of meals.

B59 There should be no reduction in the quality and variety of food at weekends, when only a small proportion of boarders may be present, and no significant variation in quality of food prepared and served in different houses.

8.2	Suitable accommodation is provided for the hygienic preparation, serving and consumption of boarders' main meals. This may be situated in the main school provided it is adjacent to or reasonably accessible from the boarding accommodation
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B60 Inspectors are not food hygiene experts, but the kitchens should be seen and a professional judgement made on hygiene arrangements. For example, attention should be given to the cleanliness of crockery, cutlery and tables, hand washing and drying arrangements and the separation of cooked and uncooked foods. It is hard to prescribe what 'reasonably accessible' from boarding accommodation means in practice. Many boarding schools have a combination of centrally located and more distant houses. However, the distance between any central dining area and the furthestmost boarding house should not be so great as to discourage a significant number of boarders from attending meals.

8.3	In addition to main meals, boarders have access to drinking water and to food or the means of hygienically preparing food at reasonable times. Schools are sensitive to boarders' individual needs in this respect.
8.4	Pupils with disabilities are provided with appropriate assistance to eat, in a manner which promotes dignity and choice.

B61 Adequate drinking fountains or other sources of drinking water should be available around school and in the houses. There is no longer a requirement that boarders should be able to prepare their own snacks, where the school provides food ready for consumption. It would be acceptable in a preparatory school for house staff to prepare hot drinks and snacks for younger boarders. It would be reasonable to expect access to a mid-morning snack, afternoon tea and a pre-bedtime snack. Most senior schools provide a snack food 'ration' such as bread and fruit, but older boarders probably provide their own snack food. If refrigerators are provided in kitchenettes, they should be inspected for cleanliness, hygiene and temperature.

NMS 9 – Boarders' possessions

B62 This Standard covers boarders' laundry arrangements, the storage of their belongings, and their access to necessary personal items.

B63 A finding that NMS 9 is 'not met' triggers a consequential failure of ISSR Part 3 paragraph 8 (b).

9.1	Adequate laundry provision is made for boarders' clothing and bedding. Boarders' clothing is satisfactorily stored and issued to the right boarder following laundering.
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B64 There is no requirement for schools to operate their own laundry service, but the great majority do so. If the laundry is arranged by the school, enquiries should be made to find out how boarders can

wash personal items themselves, especially in case of an ‘accident’, and how domestic staff in houses deal with the bedding and clothing of any bedwetters.

B65 If boarders are expected to do their own washing, there should be sufficient facilities for washing and drying, especially at peak times, such as after sport or physical education.

9.2	Boarders are able to obtain necessary personal and stationery items while accommodated at school.
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B66 Younger boarders are likely to obtain such items directly from the matron or other boarding staff or from a school shop, rather than having the freedom to visit any local shops to purchase things themselves. Older boarders are likely to have access to any nearby shopping facilities, subject to any appropriate safeguards and permission. Weekly boarders obviously have access to necessary supplies when they return home, but there should be arrangements for them to access emergency items during the week.

9.3	Reasonable protection is provided for boarders’ personal possessions and for any boarders’ money or valuables looked after by the school.
9.4	Any search of boarders’ personal belongings should be carried out in accordance with section 550ZA of the Education Act 1996 and with regard to any guidance issued by the Secretary of State.

B67 The Standard does not specify the provision by the school of a lockable cupboard, drawer or safe but, in the absence of this, the school should be asked to explain what is provided for secure storage. The great majority of schools provide such a facility. It is reasonable for schools to expect boarders to provide their own padlocks. Boarders may have their own lockable tuck boxes, but this should be in addition to provision made by the school.

B68 Other valuables such as money or passports should be securely stored by boarding staff if necessary, and appropriate records kept.

B69 The relevant advice on searching referred to in NMS 9.4 is [Searching, screening and confiscation: Advice for headteachers, school staff and governing bodies](#).

NMS 10 – Activities and free time

B70 This Standard covers the organisation and availability of boarders’ free time, including school-based activities programmes. A finding that NMS 10 is ‘not met’ triggers a consequential failure of ISSR Part 3 paragraph 8 (b).

10.1	There is an appropriate range and choice of activities for boarders outside teaching time, including sufficient and suitably timed free time each day. Suitable risk assessments are in place for any activities which may put boarders at risk of harm.
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B71 Boarders have access to the full range of clubs and activities within any after-school extra-curricular programme arranged by the school. Boarders are also likely to benefit from different inter-house events and competitions. Enquiries should be made to find out what school facilities (such as sporting, musical or art) are available to boarders in the evenings and at weekends. Many schools organise a Saturday morning activity period, if no lessons take place. Younger boarders, in particular, are likely to be offered regular or occasional off-site trips or visits at weekends. A balance needs to be struck between providing structured activities and allowing opportunities for boarders to entertain themselves and relax.

10.2	Boarders have access to a range and choice of safe recreational areas, both indoors and outdoors, and there are safe areas at school where boarders can be alone if they wish.
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B72 See above under NMS 10.1. Boarders should be asked whereabouts in the house or school they could go to be alone and how easily accessible such areas are.

10.3	Schools where there are unusual or especially onerous demands on boarders ensure that these are appropriate to the boarders concerned and do not unacceptably affect boarders' welfare.
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B73 This is likely to be relevant only in schools of a specialist nature where boarders are expected to undertake demanding performance, musical or choral programmes, in addition to their normal school day. It might also apply to schools that operate a farm where boarders need to get up very early to assist in the milking of cows before breakfast. The school should be able to demonstrate, especially for preparatory age children, that appropriate systems and people are able to monitor and support such boarders and help them if necessary to resolve any conflicts and multiple demands made of them. Such boarders should be included among the interview groups.

10.4	Boarders have access to information about events in the world outside the school, and access to local facilities which is appropriate to their age.
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B74 Modern boarders are likely to reveal that they are very much in touch with the 'outside world' through visits home and trips/outings arranged by school. PSHE and general studies courses may involve an element of current affairs, reinforced by outside speakers, involvement in community service and charitable fund-raising. Boarders are likely to have access to television and newspapers in houses. If local shopping facilities are available nearby, appropriate arrangements are likely to be made for boarders to visit these at certain times of the day and week. Supervision arrangements for boarders' use of any local facilities outside school should be appropriate to the age of the boarders involved, and the facilities used should be of a suitable type without unreasonable risks to boarders.

NMS 11 – Child protection

11.1	<p>The school ensures that:</p> <ul style="list-style-type: none"> • arrangements are made to safeguard and promote the welfare of pupils at the school; and • such arrangements have regard to any guidance issued by the Secretary of State.
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B75 This requirement refers to the guidance in [Keeping Children Safe in Education](#) (September 2018) (KCSIE). Guidance on the drawing up of a compliant policy and its effective implementation is given above from note 90 onwards.

B76 A finding that NMS 11 is 'not met' triggers a consequential failure of ISSR Part 3 paragraph 8 (a).

B77 Boarding schools are recommended to make reference to arrangements for alternative accommodation away from children in cases where a member of boarding staff is suspended pending an investigation of a child protection nature.

B78 *KCSIE* notes that children can be particularly vulnerable in residential settings and that schools should be alert to pupil relationships and the potential for peer abuse particularly in schools with a significant gender imbalance. In tailoring policies to the nature of the school, schools should make appropriate provision for responding to these issues.

NMS 12 – Promoting positive behaviour and relationships

B79 This Standard covers the school’s pastoral arrangements and their implementation for promoting good behaviour and relationships, and for dealing with disciplinary issues.

B80 A finding that NMS 12 is ‘not met’ triggers a consequential failure of ISSR Part 3 paragraph 8 (b). ISSR paragraphs 9 and/or 10 may also be ‘not met’ if there is a parallel failure in the education provision (including where education and care provision are inseparable).

12.1	<p>The school has and consistently implements a written policy to promote good behaviour amongst pupils. This policy includes:</p> <ul style="list-style-type: none"> • measures to combat bullying and to promote positive behaviour; • school rules; • disciplinary sanctions; • when restraint, including reasonable force, is to be used and how this will be recorded and managed; and • arrangements for searching pupils and their possessions.
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B81 The policy required within this Standard may be set out as a series of separate policy documents or be contained within other policies. However, there must be identifiable statements covering each of the items required. This Commentary sets out above the necessary content for an effective anti-bullying (from note 190 onwards) and behaviour/discipline policy (note 184 onwards). It should be self-evident that, for consistent and effective implementation, the procedures should be known to staff and understood by boarders.

B82 Other evidence for implementation comes from a judgement of the behaviour exhibited by boarders and the quality of their relationships, with each other and with staff.

B83 The original Standards provided sound guidance on the suitability of sanctions. No unacceptable, excessive or idiosyncratic punishments should be used by boarders or staff, including any punishment intended to cause pain, anxiety or humiliation, corporal punishment, deprivation of access to food or drink, enforced eating or drinking, prevention of contact by telephone or letter with parents or any appropriate independent listener or helpline, requirement to wear distinctive clothing as a punishment (or night-clothes by day as a punishment), use or withholding of medical, optical or dental treatment, deprivation of sleep, fines exceeding two-thirds of the boarder’s available pocket money provision, or locking in a room or area of a building.

B84 In the NMS, ‘restraint’ means using force or restricting liberty of movement. The policy on restraint should provide guidance to staff on how it is to be used to prevent a pupil committing an offence, injuring him/herself or other pupils, or destroying property. Any such instances should be recorded. The relevant guidance is: <https://www.gov.uk/government/publications/use-of-reasonable-force-in-schools>.

B85 In their policy on searching pupils, schools should balance the right of boarders to privacy with the need for the school to search a boarder or his/her possessions with consent, when there is a strong reason to do so. See [Searching, screening and confiscation: Advice for headteachers, school staff and governing bodies](#).

B86 NMS Appendix 2 requires that records of major sanctions are kept, probably centrally, together with those for day pupils. It is reasonable, in addition, to expect that boarding houses also keep records of sanctions, especially those given by prefects, in order to facilitate monitoring and the identification of significant patterns and trends. Significant variations between houses in discipline and the use of sanctions should be formally authorised by the school.

12.2	The policy complies with relevant legislation and guidance and is understood by staff and pupils.
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Earlier sections of this Commentary refer to current government advice for some of the above areas – [Behaviour and discipline in schools \(2016\)](#) and [Preventing and tackling bullying \(2017\)](#).

NMS 13 – Management and development of boarding

B87 This Standard covers the way boarding across the school and within individual houses is organised, managed and developed.

B88 A finding that NMS 13 is ‘not met’ triggers a consequential failure of ISSR paragraph 8(b).

13.1	The school’s governing body and/or proprietor monitors the effectiveness of the leadership, management and delivery of the boarding and welfare provision in the school, and takes appropriate action where necessary.
13.2	There is clear management and leadership of the practice and development of boarding in the school, and effective links are made between academic and residential staff.

B89 Governors, the head and the senior leaders of the school should provide clear support for the boarding experience. There is no requirement for the post of head of boarding, but there should be clear line management of housemasters/mistresses and, in a school with several boarding houses, an identified person should be in a position to liaise with different staff and evaluate quality and monitor consistency of practice between houses.

B90 Links between a boarder’s academic and pastoral lives may be achieved through a house tutor system and/or regular communication between teachers and non-teaching pastoral staff.

13.3	The school’s leadership and management demonstrate good skills and knowledge appropriate to their role.
13.4	The school’s leadership and management consistently fulfil their responsibilities effectively so that the standards are met.
13.5	The school’s leadership and management and governance actively promote the wellbeing of pupils.
13.6	Senior boarding staff have an adequate level of experience and/or training.

B91 A finding that NMS 13 is ‘not met’ triggers a consequential failure of ISSR paragraph 8(b). A failure of NMS 13.3 to 13.5 is likely to trigger a failure of ISSR Part 8 paragraph 34 also, if there are parallel failures in the education provision (including where the failures in education and care are inseparable).

B92 As each school will have different arrangements, inspectors will need to determine who is directly caring for boarders and who is in charge. It would be reasonable to interpret ‘senior boarding staff’ as the housemasters/mistresses who have primary responsibility for an identifiable group of boarders or house unit. There are clear links here with Standards 15.1 and 15.3, and a relationship to the induction process for new staff, who should have a senior manager or another experienced colleague as a ‘mentor’.

13.7	The school follows and maintains the policies and documents described in Appendix 1.
13.8	The records specified in Appendix 2 are maintained and monitored by the school and action taken as appropriate.

13.9	The issues specified in Appendix 3 are monitored, and action is taken to improve outcomes for children as appropriate.
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B93 The school should ensure that the records specified are drawn up and kept efficiently, both as a central record (for example, in relation to child protection allegations) and/or by individual houses (for example, to note accidents or injuries). Some may be kept and maintained by specific people where appropriate (for example, a nursing sister or health and safety officer). It is reasonable to expect that clear arrangements for one or more nominated members of staff (for example, head of boarding or equivalent) should ensure that the records are kept efficiently and regularly monitored so that issues identified can be responded to.

NMS 14 – Staff recruitment and checks on other adults

B94 This Standard covers the school's arrangements to ensure safe staff recruitment, and includes all adults coming into contact with boarders.

B95 A finding that NMS 14.1 in relation to staff is 'not met' triggers a consequential failure of ISSR Part 4 paragraph 18(2)(f) and in relation to supply staff, a consequential failure of paragraph 19(2)(e), and in each case potentially also NMS 11. A finding of 'not met' in respect of NMS 14.2 –14.6 triggers a consequential failure of ISSR paragraph 8 (a) and (b).

14.1	Schools operate safe recruitment and adopt recruitment procedures in line with the regulatory requirements and having regard to relevant guidance issued by the Secretary of State.
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B96 The requirements for this Standard involve both compliance with ISSR Part 4, paragraphs 18 to 21 (as for day schools) and have regard to *KCSIE*. Full guidance on the process and the checks required is given earlier in this Commentary from note 268 onwards. Requirements for vetting of boarding staff have been as for day staff, subject to the provisions of NMS 14.2 – 14.6 below, since the withdrawal of the 2002 NMS. In particular, the more stringent requirements relating to delayed DBS checks for boarding staff were removed; boarding staff may start work pending return of the DBS on the same conditions as for day staff, though in practice the assessed risks may be more severe and the mitigating measures more extensive.

B97 However, it should be noted that, under Standard 20, where a school provides or arranges guardians or lodgings for its own pupils either directly or through an agent, it must be able to show that members of the host family aged over 16 have had satisfactory criminal record checks.

14.2	For all persons over 16 (not on the roll of the school) who after April 2002 began to live on the same premises as boarders but are not employed by the school, an enhanced certificate with barred list, information must be obtained from the Disclosure and Barring Service (DBS).
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B98 The original Standards included this requirement only for over 18s, so the arrangements from September 2011 extend the check to include children of staff living in boarding accommodation if the children attend another school, whether as boarders or day pupils. It is not acceptable to omit staff children at university on the grounds that they are away during term time – they would clearly have access to the family 'home' at any time. If such young people work in any capacity at the school, then they are classed as 'staff' and should come under Standard 14.1.

B99 There is no requirement to include such persons on the single central register (although schools may do so). It would be reasonable for the evidence of checks (and the document referred to in Standard 14.3) to be kept in a paper file.

B100 It is a matter of judgement how far this Standard should apply to overnight visitors or the members of staff's extended family. Staying overnight occasionally does not amount to beginning to 'live on the premises' within this Standard. Such people should be treated as 'visitors' under NMS 14.4 below. A

grandparent staying in the accommodation as an infrequent and irregular baby sitter, for example, might be treated as any other visitor, but for a person staying overnight every weekend during term-time, the inspection expectation is that they would fall within this standard and, consequently, need a criminal record check. Schools are responsible for keeping boarders safe and inspectors should expect them to be able to evidence a reasonable, risk assessed approach in context to the checking of less frequent or irregular overnight visitors, and supervision where checks are delayed. The Standard does not require this to be extended to staff families living in school accommodation elsewhere on campus, but schools should consider applying the same standards for such individuals if boarders come into regular unsupervised contact with them.

14.3	There is a written agreement between the school and any person over 16 not employed by the school but living in the same premises as boarders (for example, members of staff households). This specifies the terms of their accommodation, guidance on contact with boarders, their responsibilities to supervise their visitors, and notice that accommodation may cease to be provided if there is evidence that they are unsuitable to have regular contact with children. They must be required to notify an unrelated designated senior member of staff if they are charged with, or convicted of, any offence.
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B101 The wording of this Standard should be sufficient for a school to draw up an appropriate document or letter for the family member to sign.

B102 This standard, as 14.2, applies to those 'living' in the same premises as boarders, not to visitors. As a rule of thumb, this could be applied as a minimum to those staying once a week, although the school may risk assess that it should be applied more widely.

14.4	All persons visiting boarding accommodation (e.g. visitors, outside delivery and maintenance personnel) are kept under sufficient staff supervision to prevent them gaining substantial unsupervised access to boarders or their accommodation.
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B103 Although not specifically required, most schools will probably have a 'visitor policy' to outline the approach taken to control all these situations. Discussions with house staff should establish the extent of supervision in place for such visitors, who should be authorised (and probably 'badged') on arrival. Careful consideration needs to be given to overnight visitors to staff accommodation adjacent to boarding houses, as it is unlikely that such visits could be considered supervised at all times. Many, but not all, schools require parents to sign in when visiting the boarding house. Discussions with staff should confirm the current position and expectations. Procedures in place should reasonably ensure that such 'unchecked' adults do not have significant unsupervised access to boarders or their accommodation. Parents who are asked to take on wider, 'voluntary' activities with children will be subject to the requirements of *KCSIE* and consideration should be given whether this constitutes regulated activity and that supervisory requirements are fully met.

14.5	The school regularly monitors the suitability of any arrangements it makes for the appointment of guardians.
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B104 There is no requirement for an educational guardian (as distinct from a legal guardian) to be appointed to look after the interests of overseas boarders, although many schools probably include it as a condition of entry to the school. The issue here is to establish who has made the guardianship arrangements. The use of a guardianship agency is, in a sense, irrelevant to this issue. Such an agency is either acting on behalf of the school or on behalf of the parent, and this should be made clear in the school's written pre-arrival information. It would be acceptable for a school to supply a list of host families or guardianship agencies, providing it is made clear that the appointment is the responsibility of the parent, not the school. It would still be acceptable (and advisable) for the school to set out clearly the requirements for such appointments, to help ensure that overseas parents do not make

unsuitable choices. Where the school has clearly not made or facilitated the arrangement of guardianship or host family accommodation, Standards 14.5 and 14.6 are not applicable.

- B105 If a school is prepared to find a guardian for the overseas boarder (and some schools effectively run their own guardianship service), then it takes on the full welfare responsibility for the arrangements it makes, and Standard 20 also applies. A nominated member of staff should regularly monitor and evaluate these arrangements and should ensure that guardians/host families appointed are clear about the school's expectations of them. They should be provided with an appropriate contact number within the school (probably the relevant housemaster/mistress).

14.6	Any guardians appointed by the school are subject to the same recruitment checks as staff, and their care of pupils is monitored.
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- B106 If the school is responsible for the appointment of guardians under Standard 14.5 above, the school should ensure that all members of the host family over 16 undergo the same recruitment checks as staff under Standard 14.1. A member of staff should visit the host family periodically to ensure that the arrangements are working effectively, and regularly check that the boarder lodged there remains happy with the arrangements.

NMS 15 – Staffing and supervision

- B107 This Standard covers the deployment and development of staff and other adults working with boarders, and the arrangements for effective supervision of boarders.

- B108 A finding that NMS 15 is 'not met' triggers a consequential failure of ISSR Part 3 paragraph 8 (b).

15.1	Any person employed or volunteering in a position working with boarders has a job description reflecting their duties, receives induction training in boarding when newly appointed, and receives regular reviews of their boarding practice, with opportunities for training and continual professional development in boarding.
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- B109 Job descriptions should contain sufficient detail to provide a clear statement of the main requirements and responsibilities of the job. Induction training may be carried out by a senior member of staff on a whole-school basis but should also contain an element of house-specific information outlining the requirements of being on duty and the precise organisation and routines in the house concerned. The induction process for a new housemaster/mistress may involve contact with a more experienced colleague acting as mentor. New members of the boarding team may shadow another colleague before being asked to undertake a solo duty night.

- B110 Some boarding staff (for example, housemasters/mistresses and teaching house tutors) may be included in a formal whole-school appraisal process, but this should still contain an element of their boarding roles. Other staff should have a regular (at least annual) opportunity to discuss performance and development with a line manager. Even if the process is informal, some written record should be made of the issues arising and any training opportunities identified. 'Gap' assistants, probably only on the house team for a year, should have some informal review of progress early in their time at the school, probably in their first term.

- B111 All members of the boarding team should have opportunities for training and on-going professional development, in addition to the safeguarding and first-aid training common to other members of staff. There is no requirement to undertake external training, although many schools take advantage of courses and conferences arranged by organisations such as the Boarding Schools' Association, and bodies offering expertise in areas like eating disorders, counselling and adolescent mental health issues. Courses organised 'in house' for pastoral and boarding staff should be identified through the school's training records.

15.2	Any role of spouses, partners and/or other adult members of staff households within boarding houses is made clear.
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B112 If any adult members of housemaster/mistresses' households have a role within the house or regular contact with (and implied responsibility for) boarders, whether paid or unpaid, this should be clarified and made known to the house staff team.

15.3	The staff supervising boarders outside teaching time are sufficient in number, training and experience for the age, number and needs of boarders, and the locations and activities involved.
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B113 It is difficult to specify the number of staff needed in a particular situation. There is a world of difference between the supervision requirements for a group of 50 senior boarders quietly doing their homework in their own rooms, for example, and taking a group of 20 novice preparatory boarders to learn archery. Previous DfE guidance has advised staff:pupil ratios for organised trips away from the school site of one member of staff per 10 to 15 boarders aged 8 to 10, one member of staff per 15 to 20 boarders aged 11 and over, increased to one per 10 boarders for trips abroad or overnight stays. Schools would be expected to exceed these ratios if the safety and welfare of the pupils required it. Schools should be expected to carry out and record an assessment of risk factors when deciding on appropriate supervision numbers, in line with health and safety procedures.

15.4	Boarders are at all times under the responsibility of an identified member of staff who is suitably qualified and experienced.
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B114 The principle that held in the original Standards is probably still good guidance – namely that there should be a minimum of one competent adult responsible for each identifiable group of boarders, with the means to call for back-up help as required. School-leaver 'gap' assistants should not be left in sole charge of boarders, on grounds of age and experience. Boarders should be able to state who is responsible for them in any given situation or day. It might be deemed appropriate for reliable sixth formers to work in the house in their own rooms during a free period, without an adult permanently in the building, providing that they are deemed reliable and are able to contact a responsible adult quickly in an emergency. Schools may wish to allocate a prefect to be 'in charge' of the house for short periods of time when staff may be occupied with sporting activities or similar. Standard 15 does not require an adult to be present in a house at all times but the onus is on the school to demonstrate that such a situation is reasonable and that all possible steps have been taken to ensure the health, safety and welfare of the boarders present. A specific member of staff should, nevertheless, have overall responsibility for the house during such periods. Assessment of the risks involved should take into account the frequency and duration of such situations, the number and ages of the boarders, the reliability of the prefect(s), the proximity of the nearest adults and the ease of communication with staff.

15.5	Staff know the whereabouts of boarders (or know how to find their whereabouts) in their charge at all times.
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B115 Many schools record mobile phone numbers for boarders and ensure that they have the appropriate contact number for the member of staff on duty. Boarding houses should have a clear policy for signing out when boarders leave the house or school campus and signing in on return. Boarders should confirm that the same arrangements apply in practice. Signing-out records should be regularly monitored by members of staff. Houses should be able to demonstrate the records or house lists used in the event of a fire drill, by day or night. Boarding houses will also rely on a series of roll calls or 'signing in' during the day and in the evening.

15.6	Staff working within the school know and implement the school's policy in relation to children going missing and their role in implementing that policy. Staff actively search for children who are missing, including working with police where appropriate.
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B116 The school's policy for identifying and finding boarders who are missing should set out reasonable and effective steps to be followed by staff. It should, for example, distinguish between boarders who are absent from a day-time roll call, and those missing at night, or who fail to return from 'leave out' at the appointed time.

15.7	There is at least one adult member of staff sleeping in each boarding house at night, responsible for the boarders in the house.
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B117 This Standard is self-evident. It would not be appropriate for a school-leaver gap assistant to be in sole overnight charge of boarders. Where a house comprises more than one building, sleeping-in cover from one of its constituent buildings can cover more than one building only if the buildings are immediately adjacent, the responsible staff member is easily contactable by boarders at night, staff supervision is fully satisfactory in practice, and the boarders are at the upper age level in a senior school – normally sixth formers.

15.8	Boarders have a satisfactory means of contacting a member of staff in each house at night.
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B118 Again, this is self-evident. The youngest boarders should be readily able to identify the means of contacting the relevant resident member of staff at night.

15.9	Suitable accommodation (consisting of accommodation in which meals may be taken, living accommodation and sleeping accommodation) and suitable toilet and washing facilities are provided for residential staff. This accommodation is appropriately separated from the accommodation and facilities provided for boarding pupils.
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B119 It is not expected that inspectors will physically inspect and assess private staff accommodation, but it should be covered during interviews or conversations with resident staff. The intention of this Standard is to ensure that resident staff have appropriate accommodation that is separate from that provided for or used by boarders. All resident staff, including gap assistants, should have separate and exclusive bathroom facilities from boarders. It is unclear whether its intention is that all such staff should be provided with private dining facilities, so this requirement should be interpreted flexibly, as some staff in boarding houses may only be provided with meals in the school or house central dining room.

15.10	Any boarder access to staff accommodation is properly supervised and does not involve inappropriate favouritism or inappropriate one-to-one contacts between staff and boarders.
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B120 This Standard is intended to safeguard both boarders and staff. Many houses provide a staff study or duty room as a 'buffer zone' between the private staff accommodation and the house itself. Staff guidance manuals should make clear any protocols on entertaining boarders and their access to staff accommodation. Entertaining a group of boarders with the housemaster/mistress's family in their kitchen is likely to be perfectly appropriate; a house tutor in his private accommodation carrying out a tutorial with a single boarder late in the evening would probably not be.

NMS 16 – Equal opportunities

16.1	Boarders are not discriminated against, paying particular regard to the protected characteristics set out in the Equality Act 2010 or of their cultural background, linguistic background, special
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	educational need, sexual orientation, gender reassignment or academic or sporting ability. These factors are taken into account in the care of boarders, so that care is sensitive to different needs.
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- B121 Evidence for this Standard is evaluated in common with the provisions made by the school and the outcomes for all pupils, day and boarding. Boarding houses may include statements of intent in their house documentation, and it is likely that it will be mentioned in the statement of boarding principles (Standard 1). Interviews with boarders and perhaps also with ‘minority groups’ such as overseas boarders and those receiving learning support should reveal the way the house and/or school embraces diversity and exhibits tolerance.
- B122 Schools are also required to comply with the Equality Act 2010 – see from note 250, although the specific requirement for a three-year accessibility plan is not included within this Standard.
- B123 A finding of that NMS 16 is ‘not met’ triggers a consequential failure of ISSR Part 3 paragraph 8 (b).

NMS 17 – Securing boarders’ views

17.1	Boarders are actively encouraged to contribute views to the operation of boarding provision, are able to raise concerns and make complaints, and their views are given appropriate weight in decisions about the running of the school. Boarders are not penalised for raising a concern or making a complaint in good faith.
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- B124 Whatever methods are used, boarders need to feel that the school is genuinely interested in involving them in decision-making and finding out their views of the house and school. Questionnaire evidence may also indicate boarders’ views on this area. Schools use a variety of methods to facilitate the ‘pupil voice’ and these may include house and school councils, food committees, year group consultations, house meetings, suggestion boxes, questionnaires and surveys, entry and exit interviews and so on. If a formal house or school council is in place, it would be reasonable to expect that some sort of written summary of the outcomes of discussion is published and communicated to boarders.
- B125 The pupils’ complaints policy may well be written more as a means of providing support and resolving problems or worries (see Standard 2.2). This Standard does not specifically require a formal complaints policy for boarders, but they should be certain how they might make a formal complaint, and this process should be verified by staff.
- B126 A finding that NMS 17 is ‘not met’ triggers a consequential failure of ISSRs Part 3 paragraph 8 (b).

NMS 18 – Complaints

18.1	The school has, and follows, an appropriate policy on recording and responding to complaints that is compliant with the relevant regulatory standards.
18.2	The school’s written record of complaints identifies those complaints relating to boarding provision, and action taken by the school as a result of those complaints (regardless of whether they are upheld).

- B127 The same provisions apply as for day schools under ISSRs Part 7, paragraph 33. A finding that NMS 18 is ‘not met’ triggers a consequential failure of ISSR Part 3, paragraph 8 (b). ISSR Part 7, paragraph 33 may also be ‘not met’ where there is a parallel failure in education (or where education and care provision are inseparable).
- B128 Note that this Standard is intended as a complaints procedure for parents. It is no longer a requirement under this Standard for schools to have a separate complaints policy for boarders – this is likely to provide evidence for compliance under Standards 2 and/or 17. Some schools try to make the formal policy under ISSRs Part 7 applicable to boarders as well as parents, but it is not usually an appropriate procedure for children and young people.

NMS 19 – Prefects

19.1	Any prefect system (or equivalent) gives prefects (or equivalent) appropriate specific duties and responsibilities that are appropriate for them, with adequate staff supervision, training and measures to counter possible abuses of the role.
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B129 This Standard requires loose interpretation of the term ‘prefect’. Some preparatory schools use the term for children who have little responsibility other than officiating at formal occasions. Others use dormitory captains and lunch queue monitors and the like, who do have a specific role. Senior schools frequently have a school prefect system (or equivalent) and boarding houses often operate a similar system of house prefects, sometimes using the entire top year to fulfil this role. Where school and house prefects are used, both should be evaluated, since boarders come into contact with them all.

B130 Prefects (or their equivalent) should be clear about the limits and expectations of their role and responsibilities, and this would best be clarified in some sort of written job description and initial induction/briefing. They should be supervised or monitored by staff as appropriate and have opportunities to discuss issues and resolve problems. If they are authorised to issue punishments, these should be specific and recorded appropriately, and subject to regular scrutiny. There should be no significant inconsistency in practice between boarding houses. Boarders should confirm that the prefect system works effectively, and that they find prefects helpful and supportive.

B131 A finding of ‘not met’ in relation to NMS 19 triggers a consequential failure of ISSR Part 3 paragraph 8 (b).

NMS 20 – Lodgings (Long-stay)

B132 School-arranged lodgings are those provided or arranged for a pupil under 18 by the school or by an agent or organisation acting for the school, rather than by the pupil’s parent (or an external organisation acting on the parent’s behalf). They include term-time use of lodgings instead of on-site boarding accommodation, holiday lodgings arranged for pupils by the school, pupils lodging with staff members during holidays, and accommodation during term or holiday time with school-arranged educational guardians. This Standard does not apply for school trips, or short-term language exchanges. See also Standards 14.5 and 14.6.

B133 A finding of ‘not met’ in relation to NMS 19 triggers a consequential failure of ISSR Part 3 paragraph 8 (b).

20.1	Any lodgings arranged by the school to accommodate pupils provide satisfactory accommodation and supervision, are checked before use, and are monitored by the school during use including checks at least yearly.
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B134 School documentation and records, and interviews with boarders in lodgings, should provide sufficient evidence for compliance.

20.2	It is clearly stated to parents whether any lodgings accommodating pupils are to be arranged by the school or by parents themselves.
20.3	Schools alert the local authority to any arrangements made by the school that may constitute private fostering.

B135 The matter in 20.2 should be clearly stated in pre-arrival and other documentation to parents. See also Standard 14.5.

B136 Lodgings may constitute private fostering for the purpose of notification to the local authority if the children are aged under 16 and the stay is for 28 consecutive days or more. Inspectors should check

that the local authority where the school is situated has been notified of any lodgings which constitute private fostering.

20.4	Any lodgings provided or arranged by the school are of a comparable standard to accommodation provided by the school.
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B137 Details of the accommodation provided should be included in the school documentation and records referred to above under Standard 20.1. Boarders accommodated in lodgings should not be expected to share a bedroom with a member of the host family, except when living with a member of staff whose own child is also a member of the school and of similar age and the same gender as the boarder. Boarders lodged should not usually share bathroom facilities used by adult members of the family. Accommodation requirements in Standard 5 apply.

20.5	The school visits all potential lodgings and interviews the adult who will be responsible for the accommodation of the pupils in each lodging, takes up references, and has recorded a satisfactory assessment, before any pupil is placed there. The school can demonstrate that members of the host family aged over 16 are subject to a DBS check completed at the standard level, with a satisfactory outcome known before any pupil is placed.
20.6	The school ensures that all adults providing lodgings for pupils on its behalf have undergone safeguarding training that is updated regularly as advised by the Local Safeguarding Children Board, and that they understand the school's policy in relation to pupils going missing and their role in implementing that policy.

B138 The requirement in 20.5 is self-explanatory and requires that appropriate written evidence and records are kept.

B139 The training requirement in 20.6 came into effect in April 2015. As a minimum, the school's usual safeguarding induction would be a suitable starting place with the addition of the policy regarding pupils going missing, and regular update training as for other staff.

20.7	The school has a satisfactory written agreement with each adult providing lodgings for pupils on its behalf.
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B140 This should set out the school's expectations of the host family in terms of what is to be provided, the behaviour and conduct of the boarder lodged, conditions under which the 'contract' can be terminated, and provide day and night contact details with the school.

20.8	The school provides satisfactory written guidance to host families accommodating pupils on behalf of the school, covering the school's policy and practice for lodging pupils.
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B141 See above under Standard 20.5. Host families should have a sufficient understanding of any welfare and medical circumstances affecting the boarder being accommodated and have clear guidance on how to deal with any social or pastoral situations commonly faced by boarding staff in school. Confirmation should be given about situations such as evening movements and curfews, smoking and alcohol, visitors, weekend leave arrangements and so on.

20.9	At least once per school term a member of staff discusses their lodgings separately with each pupil accommodated by or on behalf of the school in lodgings, recording the pupil's assessment in writing and taking action on any concerns or complaints.
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B142 This should be recorded in writing and should be corroborated by interviews with boarders accommodated in lodgings.

NMS Appendix 1 – List of policies and documents

B143 These policies and documents are required for compliance (NMS 13.7) but do not need to be stand-alone documents. Some policies are, of course, specifically mentioned in some Standards (for example, policies for child protection and countering bullying). Others, such as boarders' access to an 'independent listener' will probably be incorporated within other policies or handbooks.

B144 There are some anomalies still, as this Appendix list has not changed with the 2013 and 2015 NMS revisions. For example, Standard 2.1 no longer requires that the induction process for new boarders includes key information in writing, and yet this is still included in Appendix 1. Inspectors should, therefore, use some professional judgement and flexibility in determining the school's response to such requirements.

B145 The policies required are as follows:

1. Countering bullying, including cyberbullying
2. Child protection
3. Discipline (including sanctions, rewards and restraint)
4. Staff disciplinary, grievance and whistleblowing policy
5. Care of boarders who are unwell, including first aid, care of those with chronic conditions and disabilities, dealing with medical emergencies and the use of household remedies
6. Safety and supervision on school journeys
7. Access to school premises by people outside the school
8. Pupil access to risky areas of school buildings and grounds
9. Health and safety
10. Pupil access to a person independent of the school staff group
11. Provision for pupils with particular religious, dietary, language or cultural needs
12. Supervision of ancillary, contract and 'unchecked' staff

B146 The documents required are as follows:

13. Staff handbook/guidance for boarding staff (this document may include many of the policy documents listed above)
14. Statement of the school's boarding principles and practice
15. Requirement for staff to report concerns or allegations of risk of harm to pupils
16. Complaints procedure
17. Procedure for enabling pupils to take problems or concerns to any member of staff
18. Responses to alcohol, smoking and substance abuse
19. Plans for foreseeable crises
20. Staff induction, training and development programme
21. Prefect duties, powers and responsibilities
22. Key written information for new boarders
23. Job descriptions for staff with boarding duties

B147 The following are required where applicable:

24. Clarification of whether any educational guardians or lodgings are arranged by the school or parents
25. Agreement with any adult providing lodgings to pupils
26. Guidance on welfare to host families accommodating pupils on behalf of the school

NMS Appendix 2 – List of records

B148 These are the records which a school needs to maintain and monitor under NMS 13.8. As with the items in Appendix 1, schools need to provide these as evidence that policies and procedures required in individual Standards are being implemented effectively.

B149 Two uses of the word ‘supervision’ are used in the Appendices. In Appendix 1, under ‘Supervision of ancillary, contract or unchecked staff’, the word is taken to refer to the management sense, in terms of the usual monitoring and direction of their roles. In Appendix 2, under ‘Staff supervision, appraisal and training’, the word is taken to refer to the provision of opportunities to ‘off-load’ emotional and pastoral concerns and talk through difficult situations relating to the demanding nature of their caring roles. Such supervision could be individual or in small groups, and should be documented, however briefly.

B150 The following records are required:

1. Child protection allegations or concerns
2. Major sanctions
3. Use of reasonable force
4. Complaints
5. Individual boarder’s records (containing personal, health and welfare information)
6. Administration of medication, treatment and first aid (kept confidentially)
7. Significant illnesses
8. Significant accidents and injuries
9. Parental permission for medical and dental treatment, first aid and non- prescription medication
10. Risk assessments (for risky activities and in relation to premises/grounds)
11. Staff recruitment records and checks (including checks on others given substantial unsupervised access to children or residential accommodation)
12. Staff duty rotas
13. Staff supervision, appraisal and training
14. Fire precautions tests and drills
15. Risk assessments under the Regulatory Reform (Fire Safety) Order 2005
16. Menus
17. Pocket money and any personal property looked after by staff
18. Care plans for pupils with special needs (where applicable)
19. Parental permission for high risk activities
20. Checks on licensing of relevant adventure activities centres
21. Assessments of lodgings arranged by the school
22. Assessment of off-site accommodation used by the school

NMS Appendix 3– List of issues to be monitored by the school

B151 NMS 13.9 requires these issues to be monitored (perhaps two or three times a year). Practice indicative of compliance would be regular monitoring by the head or another senior member of staff to identify patterns and trends, decide if changes in welfare practice are needed and to take action as appropriate. Monitoring should also provide schools with the opportunity to identify significant variation or inconsistency in practice between houses and across the school. Schools should be able to demonstrate how this review process works and what outcomes may have been identified.

B152 The following matters and records in relation to boarders, as described in the Standards, must be regularly monitored by the headteacher or a senior member of staff, to identify whether review or change in welfare practice is needed:

1. Records of complaints and their outcomes
2. Records of major sanctions
3. Records of any use of reasonable force
4. Systems and management of medical welfare
5. Records of significant accidents
6. Records of all risk assessments carried out
7. Action taken in response to all risk assessments carried out
8. Suitability of any guardianship arrangements made

APPENDIX 1: CHECKING THE ADMISSION REGISTERRevised September 2016 for use by inspectors and for information of schools (*earlier versions should be destroyed*)

Inspectors enter V, X or note

NB For schools which include day and boarding pupils, it should be indicated whether each pupil is boarding or day.

Full name <i>(Check a sample of entries)</i>	Sex	Date of birth	Name and address of all parents / guardians* and one telephone number	Address of new or additional place(s) of residence of child, and date child began to reside there	Full name of parent the pupil lives with	Date of admission / re-admission	Name and address of last school	Name of destination school	Start date at destination school
1									
2									
3									
4									
5									

Does the school have a monthly printout or backup (if electronic)?

Are these kept for at least three years?

* For electronic systems, it is acceptable to have one address on the back-up/print-out, with any others kept in the system.

* More flexible timing is allowable for sixth-form pupils, provided that a suitable system is rigorously implemented.

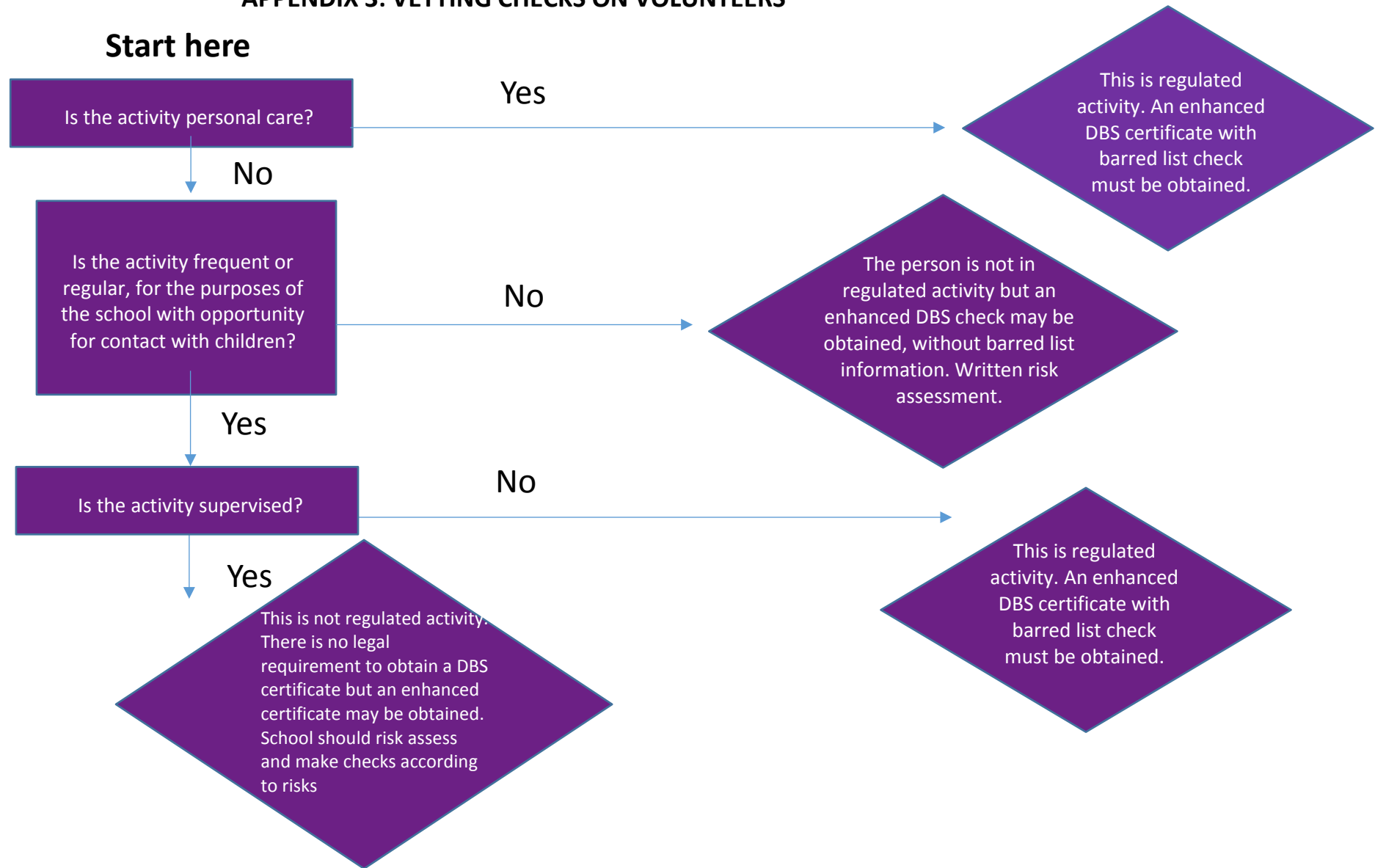
APPENDIX 2: CHECKING THE SINGLE CENTRAL REGISTER OF APPOINTMENTS

For use by inspectors – Revised September 2017. The register may be electronic, provided it can be printed. The school should have recorded in the relevant column the date on which each check was made. It is good practice to record the initials or name of the checker, but that is not a requirement.

Name of member of staff	Post and start date	Date of written notification from supply agency	Identity check (for example, address and DoB, passport)	Qualifications required (Yes/N/A)	DBS – date of receipt/sight of certificate, where relevant	Check of barred list/List 99	Right to work in UK	Overseas check, inc. EEA where appropriate	Prohibition from teaching	Prohibition from management	References	Employment history	Medical	Notes: including any acceptance of disclosure from another institution; arrangements with a supply agency; supervision while awaiting disclosure; whether the person is not in regulated activity.
					If not checked, inspectors ascertain whether check was relevant	Required for those in regulated activity			Required for those carrying out teaching work.	Required for proprietors, heads, SLT and teacher heads of department				
Staff														
Staff non-teaching									N/A					
Supply staff														
Proprietors / governors				N/A							N/A	N/A	N/A	
Volunteers (if checked)							N/A		N/A			N/A	N/A	

Inspectors will also scrutinise a sample of checks that do not have to be included on the SCR, eg over 16s resident on the premises, guardians.

APPENDIX 3: VETTING CHECKS ON VOLUNTEERS



GLOSSARY

Adventure Activities Licensing Authority	The body which has oversight and responsibility for licensing of certain adventure activities for young people.
Complex needs	For the purposes of premises sub-paragraph 24(1)(c), a pupil has 'complex needs' if the pupil has profound and multiple learning difficulties in addition to other significant difficulties, such as a physical disability or sensory impairment, which require provision which is additional to or different from that generally required by children of the same age in schools other than special schools or by children with special requirements.
Contractors	Staff working for a company engaged by the school under a contract to provide services, for example catering, cleaning or undertaking building works.
Department for Education	<p>The regulator of independent schools in England.</p> <p>Address: Independent Education and Boarding Team, Department for Education, Level 3, Bishopsgate House, Feethams, Darlington, DL1 5QE.</p>
Designated officer(s)	Local authorities (LAs) have a designated officer or team of officers, either as part of multi-agency arrangements or otherwise, to deal the management and oversight of allegations against people that work with children. Hitherto this function was provided by a single individual known as the LA designated officer (LADO). The acronym 'LADO' has been removed from <i>KCSIE</i> and <i>WT</i> from March 2015 in favour of 'designated officer, or team of officers' or sometimes 'designated officer(s)' to indicate that LAs now have some discretion over their approach. This does not prevent LAs, schools and others continuing to use it as appropriate.
Disclosure and Barring Service	<p>The body created from the merger of the Criminal Records Bureau and the Independent Safeguarding Authority.</p> <p>Email: customerservices@db.sgsi.gov.uk</p> <p>Telephone helpline: 03000 200 190</p> <p>International telephone helpline: +44151 676 9390</p> <p>Address for referrals: PO Box 181, Darlington DL1 9FA</p> <p>Telephone for referrals: 01325 953 795</p>
EHC Plan	'Education, health and care plan', replaced statements of special educational need from September 2014. An EHC plan is a formal legal document detailing the support required by a child with SEN.

Employer Online service (now known as Teacher Services)	for checking QTS, prohibitions from teaching and from management, EEA checks
Fundamental British values	Defined by DfE as democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs.
Have regard to	Following the spirit and main features of the guidance unless exceptional circumstances arise to divert from it
Health and Safety Executive	Agency with statutory responsibility for Health and Safety Telephone 0845 300 99 23
Individual Education Plans (IEPs)	A document that helps teaching staff to plan for a child, teach him/her and review progress. There is not a standard format, and other names are also used for the document
Local Authority Designated Officer (s) (LADO(s))	LAs have a designated officer or team of officers, either as part of multi-agency arrangements or otherwise, to deal the management and oversight of allegations against people that work with children. The acronym 'LADO' was removed from <i>KCSIE</i> and <i>WT</i> from March 2015 in favour of 'designated officer, or team of officers', or sometimes 'designated officer(s)', to indicate that LAs now have some discretion over their approach. This does not prevent LAs, schools and others continuing to use it as appropriate. ISI continues to use the acronym LADO for brevity.
Local Safeguarding Children Board (LSCB)	The successor bodies to Area Child Protection Committees, with a statutory duty to safeguard and promote the welfare of children and young people in their area. LSCBs are to be replaced by a new system of local safeguarding partners which will designate relevant agencies locally to support their work. LAs have from June 2018 to 29 September 2019, to transition to the new system.
Made available	Where information or a document is to be 'made available', that is met— (a) in a case where the school has an internet website, if— (i) the information or a copy of the document is— (aa) available on the website in a form accessible to parents of pupils and parents of prospective pupils; and (bb) available for inspection on the school's premises during the school day; and (ii) the proprietor takes reasonable steps to ensure that parents of pupils and parents of prospective pupils are

	<p>aware that the information or a copy of the document is available and the form in which it is available;</p> <p>(b) in a case where the school has an internet website but the information or a copy of the document is not available on the website, or where the school does not have an internet website, if—</p> <p>(i) the proprietor takes reasonable steps to ensure that parents of pupils and parents of prospective pupils are made aware that they may request the information or a copy of the document; and</p> <p>(ii) the information or a copy of the document is sent or given to such parents free of charge, in response to a request.</p>
Ofsted	<p>Registering authority for the Early Years Register (for provision for under 3s)</p> <p>Telephone: 0300 123 1231</p> <p>Address for correspondence: Piccadilly Gate, Store Street, Manchester, M1 2WD</p>
Overseas checks for staff	Home Office guidance on checks available from different countries
Personal care	Personal care includes helping a child, for reasons of age, illness or disability, with eating or drinking, or in connection with toileting, washing, bathing and dressing
Portable Appliance Testing (PAT)	Testing of electrical appliances for safety. The Health and Safety Executive have published further guidance.
Proprietor	The person or body of persons responsible for the management of the school and includes individual proprietors and formally constituted boards of governors, directors or trustees.
Protected characteristics	<p>Under the Equality Act 2010, the following are ‘protected characteristics’:</p> <p>age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation.</p>
Provided	<p>Where information or a document is required to be ‘provided’ to a person:</p> <p>THE SCHOOL CAN EITHER</p> <p>Where the person has provided the school with a valid electronic mail address, send to that address</p>

	<p>(i) the information or a copy of the document in electronic form; or</p> <p>(ii) the address for an internet website where the information or a copy of the document can be downloaded by the person,</p> <p>In which case the information or copy of the document must be available for inspection by the person on the school's premises during the school day.</p> <p>OR</p> <p>Send or give the information or a copy of the document to the person.</p>
Reasonable adjustments	<p>Further useful information is available in:</p> <p>Reasonable adjustments for disabled pupils 2015</p> <p>Ensuring a good education for children who cannot attend school 2013</p> <p>Supporting pupils at school with medical conditions 2014</p> <p>Mental health and behaviour in school 2015</p>
Registered body	A body registered with the DBS to undertake criminal record checks
Regular (for the purposes of regulated activity)	<p>For the purpose of assessing whether a person is working in regulated activity, 'regular' includes 'frequent' and these are defined together as follows:</p> <ul style="list-style-type: none"> • frequently (once a week or more often), • or on 4 or more days in a 30-day period, • or overnight (between 2am and 6am).
Regulated activity	<p>The definition of regulated activity (i.e. work that a barred person must not do) in relation to children comprises, in summary:</p> <p>(i) regular (see above) work in schools with opportunity for contact with children. Not work by supervised volunteers.</p> <p>(ii) unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/ guidance on well-being, or drive a vehicle only for children, if done 'regularly' (see above)</p> <p>(iii) relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional; Applies to any child, even if done only once.</p>
Relevant agencies	See safeguarding partners.

RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations, 2013)	<p>The requirement for employers to report to HSE: deaths; major injuries; over-seven-day injuries; an accident causing injury to pupils, members of the public or other people not at work; a specified dangerous occurrence, where something happened which did not result in an injury but could have done.</p> <p>From 1 October 2013, it is anticipated that:</p> <ul style="list-style-type: none"> • The classification of ‘major injuries’ to workers will be replaced with a shorter list of ‘specified injuries’. • The existing schedule detailing 47 types of industrial disease will be replaced with eight categories of reportable work-related illness. • Fewer types of ‘dangerous occurrence’ will require reporting. <p>Further information is available at: http://www.hse.gov.uk/riddor/</p>
Safeguarding partners	<p>Local Safeguarding Children Boards are to be replaced by local safeguarding partners. There will be three partners responsible for safeguarding in each LA area. The partners will be/are: the LA, a local clinical commissioning group (CCG) and a Chief of police for a local police force.</p> <p>Safeguarding partners will designate ‘relevant agencies’ who will then have a statutory duty to co-operate in local arrangements. All schools are expected to be so designated.</p> <p>LAs have from June 2018 to September 2019 to transition to the new arrangements.</p>
Special requirements	<p>For the purposes of these regulations, a pupil has ‘special requirements’ if the pupil has any needs arising from physical, medical, sensory, learning, emotional or behavioural difficulties which require provision which is additional to or different from that generally required by children of the same age in schools other than special schools.</p>
Staff	<p>Any person working at the school, whether under a contract of employment, under a contract for services or otherwise than under a contract, but does not include supply staff or a volunteer. The following are included: teachers, peripatetic teachers and coaches, part-time staff, administrative staff, caretakers and other ancillary staff, staff appointed from overseas.</p>
Overseas checks for staff	<p>Home Office guidance on checks available from different countries</p>
Statement of SEN	<p>A formal legal document, prepared by a local authority, which set out an assessment of a child’s needs and the special educational</p>

	provision to be made for the purpose of meeting those needs. Replaced by EHC plans from September 2014.
Suitable	Any requirement that anything provided under the premises regulations must be 'suitable' means that it must be suitable for the pupils in respect of whom it is provided, having regard to their ages, numbers and sex and any special requirements they may have.
Supply agency	An employment business which supplies persons, to act for, and under the control of, the school in any capacity. For example, an agency which provides supply teachers or temporary administrative staff.
Supply staff	Any person working at the school supplied by an employment business – this does not only cover supply teachers, but any individuals supplied by an agency and catering, medical and cleaning staff may also be included.
Teacher Services	Service for checking QTS and teacher sanctions and restrictions https://www.gov.uk/guidance/teacher-status-checks-information-for-employers
Teaching Regulation Authority	Guidance on teacher misconduct referrals
TUPE	The employment legislation which transfers employees from one business to another.
Umbrella organisation	An organisation approved to undertake DBS checks on behalf of other groups.
Volunteer	A person who performs an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.

TABLE OF SUBSTANTIVE CHANGES – SEPTEMBER 2018

Where	What
Notes	Small changes for clarity throughout and to update references eg NCTL to TRA. Edubase to Get information about schools (GIAS).
Note 16	Additional clarification of roles of ISI, DfE and Ofsted
Notes 62 to 76	New information about sex discrimination with particular reference to implications of Al-Hijrah judgement
Notes 91 to 97	Overview of changes to <i>WT 2018</i> and tweaks to refer to <i>KCSIE 2018</i>
Notes 110 and 228	New requirement to hold more than one emergency contact for each pupil.
Note 114	Additional safeguarding policy content about peer-on-peer abuse
Notes 132 to 136	Changes to DDSL job descriptions, transfer of child protection files, staff induction and training, in consequence of <i>KCSIE 2018</i>
Notes 142 to 145 and 156	The requirement for a culture of safety, reflective working and on-going safe working practice
Notes 163 to 179	Changes to disqualification from childcare (removal of ‘by association aspect’)
Note 249	Risk assessments are not an end in themselves but must be acted on.
Notes 304 to 311	Changes to reference guidance in <i>KCSIE 2018</i> .
Note 328	Prohibition from management check now to be done for internal appointments too.
Paragraph 20 of the ISSR	More information included about proprietors from the underlying text of the standards.
Note 355	Information about the approach to overseas proprietors.
Notes 360 and 416	Clarification about archiving and retention.
Note 375 and Appendix 3	Risk assessment for volunteers to be recorded in consequence of <i>KCSIE 2018</i> .
Note 401 to 407	More information about host families in consequence of <i>KCSIE 2018</i> .
Notes 426, B26, B38 and B42	Confirmation that the standards and NMS do not prevent schools from catering for the needs of transgender pupils.
Note 431 and 432	Clarification of the premises standards relating to toilets and medical room.
Note 480	Further implications of the leadership and management standard.

SUMMARY OF KEY CHANGES MADE TO THE EYFS FRAMEWORK IN APRIL 2017

EYFS Framework ref.	Summary of change
Wrap around care – page 7, footnote 5 and page 26, paragraph 3.40	The new framework confirms that providers offering exclusively before- and after-school care or during holidays for children who normally attend Reception or above do not need to observe the learning and development requirements.
Physical activity – page 8, footnote 6	For information, the Chief Medical Office has published guidance on physical activity for different age ranges that schools may wish to refer to.
Safeguarding training – page 17, paragraph 3.6 and footnotes 13 and 14	This is not a specific requirement, but the new framework suggests that EYFS providers may include female genital mutilation (FGM) in the list of types of abuse and neglect covered in safeguarding training for staff. Links to government guidance on FGM and the advice document What to do if you're worried a child is being abused: Advice for Practitioners are provided for reference. Inspectors will expect schools to take a risk-based approach to staff-training that recognises and reflects the issues that may be relevant to their cohort of pupils.
Prevent duty – page 17, paragraph 3.7 and footnote 15	A reminder of the legal obligation to have due regard to the need to prevent people from being drawn into terrorism. EYFS providers must have regard to the Prevent duty guidance . Inspectors will expect the schools making provision for early years to recognise that their approach to Prevent must extend to the early years setting. See ISI Update 41 (October 2015) for a reminder of the top ten FAQs about Prevent.
Criminal records checks for volunteers – page 18, paragraph 3.10 and footnote 20	Enhanced criminal record checks are explicitly required for unsupervised volunteers and supervised volunteers who provide personal care.
Overseas criminal record checks – page 18, paragraph 3.10 and footnote 22	Additional criminal records checks should be made for anyone who has lived or worked abroad. A link to the government list of overseas vetting checks is provided. In the absence of other indicators, inspectors will continue to apply the same 'rule of thumb' for minimum compliance purposes, currently set out in note 314 to 318 of the this Commentary. Settings should take a risk-based approach to whether a more extensive approach to this check is called for by the particular circumstances.
DfE disqualification guidance – page 19, footnote 26	As required by <i>Keeping Children Safe in Education</i> , schools must continue to have regard to the disqualification guidance published by the DfE.
Staff qualifications – page 21, paragraph 3.23 and footnotes 28 and 29	<p>The rules have become more flexible in relation to the English and mathematics qualification requirements for Early Years Educator (EYE) staff who are to be included in the ratios at level 3.</p> <p>Under the old framework, EYE staff were required to have a C grade or above at GCSE in English and Maths to count at level 3 in the ratio. However,</p>

	<p>under the new framework the requirement is broader - EYE staff are now required to have a 'suitable level 2 qualification in English and mathematics'. The list of level 2 qualifications in English and mathematics is below (and can also be found in Annex B of the Government Consultation Response re Literacy and numeracy qualification requirements for level 3 Early Years Educator staff). Suitable level 2 qualifications still include GCSEs at C grade in mathematics and English, meaning that schools who are compliant with the old framework will automatically be compliant with the new framework.</p> <p>NB these requirements only apply to staff with an Early Years Educator qualification post September 2014 when the current EYFS framework came into force. For staff whose qualification pre-dates the Early Years Educator qualification (ie pre September 2014), the regulations have not changed (ie they must hold a qualification that meets the DfE's full and relevant criteria).</p> <p><u>Suitable level 2 qualifications in English and mathematics (plus recognised Scottish, Northern Irish and Welsh equivalents):</u></p> <p>English</p> <ul style="list-style-type: none"> • a Functional Skills qualification in English at Level 2 • a GCSE/International GCSE qualification in English Language and/or Literature to at least grade C (grade 4) • a Key Skills qualification in Literacy at Level 2 • an A' Level or AS Level qualification in English Language and/or English Literature to at least grade E • an O' Level qualification in English to at least grade C • CSE grade 1 English (Language) <p>Mathematics</p> <ul style="list-style-type: none"> • a Functional Skills qualification in mathematics at Level 2 • a GCSE/International GCSE qualification in mathematics to at least grade C (grade 4) • a Key Skills qualification in Application of Number at Level 2 • an A Level or AS Level qualification in mathematics or pure mathematics and/or further mathematics to at least grade E • an O Level qualification in mathematics to at least grade C • CSE grade 1 mathematics <p>As currently, inspectors will expect managers to be aware of qualification requirements and ratios and will routinely check the qualifications of a sample of staff.</p>
<p>Paediatric First Aid (PFA) Certificates – page 22, paragraph 3.25, footnotes 30 - 33 and Annex A</p>	<p>All newly qualified entrants to the early years workforce with full and relevant level 2 and/or level 3 qualifications dated 30 June 2016 or later must also have a PFA certificate or an emergency PFA certificate within three months of starting work in order to be included in the staff ratios at that level. PFA training must be renewed every three years and must meet the criteria set out in Annex A of the new EYFS framework.</p> <p>Schools should ensure that they have read the full details on page 22. Inspectors will expect managers to be aware of the PFA certificate requirements and may sample records.</p>

<p>Medicines – <i>page 27, paragraphs 3.44, 3.45 and footnote 49</i></p>	<p>The wording of paragraph 3.45 has been amended to clarify that <u>prescription</u> medicines should not be administered unless prescribed by a doctor/dentist/nurse/pharmacist. EYFS providers are also directed to the Guidance on Infection Control in Schools and other Childcare Settings.</p> <p>This reflects the current understanding and will not require changes in schools which are meeting current requirements. However, schools may wish to take the opportunity to review their procedures and information provided to parents.</p>
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