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To: Children's Champions Board - 12 March 2008

Subject: **THE SAFEGUARDING VULNERABLE GROUPS ACT 2006,
AND THE INDEPENDENT SAFEGUARDING AUTHORITY**

Classification: Unrestricted

Summary: This paper provides information on new registration arrangements for those who wish to work with children.

Introduction

1. (1) The Safeguarding Vulnerable Groups Act 2006 and the Safeguarding Vulnerable Groups (NI) Order 2007 are major elements of a wide-ranging and ambitious programme of work established across Government and jurisdictions of the UK to address the systemic failures identified by the Bichard Inquiry. The legislation was enacted in response to recommendation 19 of the Bichard Inquiry Report which states:

'New arrangements should be introduced requiring those who wish to work with children, or vulnerable adults, to be registered. The register would confirm that there is no known reason why an individual should not work with these clients'.

- The new Vetting and Barring arrangements will see the introduction of the **Independent Safeguarding Authority**. The ISA will be a panel of experts chaired by Sir Roger Singleton who will assess cases referred regarding individuals who may be unsuitable to work with children or vulnerable adults.
- The new arrangements will require all staff employed (including volunteers) within the children's workforce and those working with vulnerable adults to register with the new scheme.
- New Vetting and Barring arrangements will see the merging of existing barred lists (POCA, POVA and List 99).
- It will be an offence for a barred individual to seek employment with vulnerable groups. It will also be an offence for any agency to employ a barred individual (unless risk assessment by ISA has approved supervised work in another capacity).
- It is understood that a retrospective review of all staff currently on barred lists, POCA, POVA and List 99, will be undertaken to align unsuitable people within the new arrangements.

- It should be recognised that there will be a huge cost and resource implication for all agencies that employ staff within the Children's Workforce. It is unclear at this stage how this will be funded, but it will involve the registration of up to 11 million people.

(2) The Kent Safeguarding and Children Board's guidance on minimum standards for safe recruitment and employment is attached at appendix one.

Recommendations

2. Members of the Children's Champions Board are asked to note that this scheme is likely to be implemented in Autumn 2008 and will have a resource implication for all agencies.

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Background Documents:

None

Other Useful Information:

None

DRAFT – OUT FOR CONSULTATION



Kent Safeguarding Children Board

Safe Recruitment & Employment

**(Practice Guidance on
Minimum Standards)**

October 2007

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1. Introduction

- 1.1 Messages from research show the importance of organisations that provide services to children and young people needing to operate recruitment and selection procedures that help to deter, reject or identify people who pose a risk, or are unsuitable to be part of the children's workforce.
- 1.2 Generally the vast majority of people who work with children and young people in paid or voluntary settings have their best interest, safety and welfare at heart. However, inquiries, research, child protection investigations and disciplinary proceedings have alerted us to the fact that some people seek access to children and young people in order to cause them harm. This harm includes physical, sexual and emotional abuse, including intimidation and bullying. It is also well known that abused children often do not disclose the harm they have suffered at the time it occurs.
- 1.3 Children and young people can often be abused and harmed when employees fail to act to report abusive behaviour, including professional misconduct. This colludes with and protects the adult rather than safeguarding the interest of children and young people and protecting them from abuse and harm. This is contrary to statutory expectation that defines safeguarding children as everyone's business.
- 1.4 KSCB is committed to raising standards and introducing consistency across the County. It is therefore essential that all organisations sign up to complying with the minimum standards laid out in this practice guidance on safe recruitment and employment of staff within the children's workforce.

2. Statutory Duties

- 2.1 Section 13 of the Children Act (2004) places the Local Authority's safeguarding duties in a wider context and onto a statutory footing. KSCB now assumes responsibility for monitoring safeguarding practice in all agencies that work with children, and robust Safe Recruitment policy and practice is a fundamental part of this process in ensuring that people employed to work within the Children's workforce are fit to do so.

'To fulfil their commitment to safeguard and promote the welfare of children, all organisations that provide services for children, or work with children, need to have in place recruitment and human resource management procedures that take account of the need to safeguard and promote the welfare of children and young people, including arrangements for appropriate checks on new staff and volunteers'. (Section 2.8 Working Together to Safeguard Children 2006)

This guidance is informed by nationally recommended standards in safe recruitment and employment arising from key reports including;

Choosing with Care (Warner 1992)

People Like Us (Utting 1997)

Protection of Children Act 1999

Lost in Care (Waterhouse 2000)

Education Act 2002

Bichard Enquiry (2004)

Second Joint Chief Inspector Review of Children's Safeguarding (2005)

Safeguarding Children and Safer Recruitment in Education (2006)

Working Together To Safeguard Children 2006

- 2.2 District Councils, Local Authorities, Primary Care Trusts, NHS Trusts and NHS Foundation Trust, Strategic Health Authorities, the Police (including British Transport Police), Probation, YOS, Prison Services & Secure Training Centre and Connexions all have a duty under Section 11 of The Children Act 2004, to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. All agencies must have a named Senior Officer (NSO) who is accountable for this as outlined in 'Working Together to Safeguard Children (2006)'.
- 2.3 CAFCASS also has a duty under Section 12 (1) of the CJCSA 2006. Whilst some organisations are not specifically named in their duty to safeguard and protect young people up to the age of 18, they do have a common law duty of care that includes safeguarding children and young people.
- 2.4 Section 175 of the Education Act 2002 also places a statutory duty on schools, Local Authorities and FE Colleges to have policies and procedures in place that safeguard children and promote their welfare. Section 157 of the same Act places a similar duty on Independent sector schools.
- 2.5 The Child Care Act 2006 and the implementation of the Foundation Stage (which effectively replaces the National Minimum Standards in 2008) places a specific duty on Early Years Providers to adopt safe recruitment procedures.

3. Parameters of this Practice Guidance

- 3.1 This Practice Guidance is applicable to all agencies in the public, private and voluntary sector that involve services to children. Minimum Standards in safe recruitment must be considered for all appointments of staff (paid or unpaid) including volunteers, committee members, Governors etc., who have:
 - Direct access to children
 - Supervisory or management position relating to staff who have such access
 - Managerial capacity that enables them to influence the formation of services to children
 - Positions that enable access to sensitive or personal information relating to children and families (e.g. Contact Point).
 - Unregulated activity with children and young people (e.g. Language Schools, Sport and Leisure facilities etc.)
 - Employment / Supply agencies that provide staff to work with children.
 - Those responsible for commissioning services for children from the independent and voluntary sector must ensure that organisations have appropriate Safe Recruitment and Employment Procedures in place prior to contracts being agreed.

4. Developing a Safe Culture within Organisations

4.1 All agencies and organisations that work with children have a duty to set standards of safe working practice and raise awareness of safeguarding issues within the workforce. All staff need to receive formal induction training on what constitutes a safe working culture and be familiar with procedures that advise what they should do if they have a concern.

4.2 The Agency / Organisation should have in place:

- **Safe Recruitment and Selection Policy and Protocols**
- **Complaints Procedures**
- **Whistle Blowing Procedures**
- **Procedures for Managing Allegations Against Staff**

Such procedures provide a strategic organisational framework that is both informed and transparent. When understood and put into practice such procedures should prevent the appointment of unsuitable people or help to identify and address the concerns posed by those who show the potential of risk to children and / or question the integrity of the organisation.

5. Safe Recruitment and Selection Policy Statement.

5.1 This should declare the organisations commitment to safeguarding and promoting the welfare of children and young people and how the recruitment and selection processes applied by the organisation proactively supports this commitment, i.e.

5.2 *“This authority/organisation/school/charity/District Council/PCT is committed to safeguarding and promoting the welfare of children and young people, engages with children and staff in policy and practice developments, and proactively encourages feedback”*

5.3 It is consistent with national recommended practice for such a statement to include:-

- Publicity Material
- Recruitment Website (where appropriate)
- Job advertisements
- Candidate information packs
- Persons Specifications
- Job description
- Competency Frameworks
- Induction Programmes
- Equality Impact Assessment

5.4 It is also good practice to ensure that each employee’s specific duty of care and personal responsibility for safeguarding and promoting the welfare of children and young people is built into Codes of Practice, Contracts of employment and Disciplinary procedures

6. Adverts

- 6.1 Within adverts and information to candidates, reference should be made to the requirement of employees to obtain a Criminal Records disclosure via the CRB, including checks against the statutory lists. This enables candidates to make informed decisions about whether or not they wish to apply.
- 6.2 Adverts should also convey that the employer views safeguarding children as paramount within the organisation's culture.
- 6.3 It is also essential that adverts consider the ethos of the organisation in relation to equality of opportunity and disability discrimination legislation.

7. Job Descriptions:

- 7.1 Job descriptions should clearly state the
 - Main duties and responsibilities of the position
 - Clear expectations and post-holders individual responsibility for promoting and safeguarding the welfare of children.
 - Line Management accountability for supervision and performance.

8. Person Specifications

- 8.1 Person specifications should
 - Clearly convey the selection criteria against which the applicants ability to do the job will be assessed
 - Contain selection criteria which specify the experience, skills, qualifications and personal qualities required
 - Explain how these requirements will be tested and assessed during the selection process. I.e. by interview, tests, presentations, observation of group exercises etc.
- 8.2 It is vital that candidates are aware that, in addition to their ability to perform duties of the post, selection will consider their personal suitability for the role. This includes their:
 - Motivation and suitability to work with children
 - Attitude towards the use of authority and control
 - Integrity and ability to form and maintain appropriate professional relationships with children
 - Emotional resilience when working with challenging behaviours and situations
- 8.3 It is recommended that the selection criteria, including those relating to personal qualities, should be defined through competencies as this provides increased opportunity to test behaviours and allows for a more objective, evidence-based approach to selection.

9. Application Form

- 9.1 It is **not** good practice to accept a CV in place of an application form because this will only contain the information the applicant wishes to present. Application Form allows for a common set of core data from all applications

that can then be used as a part of full vetting and verification of short-listed candidates.

- 9.2 Employers should be aware that serious deliberate fraud of deception in connection with an application may amount to a criminal offence (obtaining pecuniary advantage by deception). Any case involving false declarations on an application form should be reported to the Police and the Secretary of State and could lead to summary dismissal.
- 9.3 Essential information requested as part of the application should include:-
- Full identifying details including current and former names, date of birth, current address and National Insurance Number (verification of identity and CRB disclosure request can be completed on the day of interview).
 - Academic and Vocational qualifications, including awarding body, name of institution and date (original certificates should be evidenced).
 - Full employment chronology (any gaps in service or anomalies to be pursued)
 - All training post education including dates and awarding bodies.
 - Declaration of any family or close relationships to existing employees or employers including councillors, governors, trustees
 - Details of at least two referees. One from current or from most recent employers must be pursued (see Section 11 References)
 - Explanation that the post is exempt from the Rehabilitation of Offenders Act 1974 and therefore all convictions, cautions and reprimands including those regarded as 'spent' and 'pending' must be declared. It should require a signed statement that the person is not on List 99, or POCA, is not disqualified from work with children or subject to any sanctions imposed by a regulating body, such as the General Teaching Council (GTC), General Social Care Council (GSCC).
 - A question about any outstanding complaints or investigations against the candidate that could bring the organisation into disrepute at a later stage.

10. Vetting Arrangements if Appointed

- 10.1 All organisations should carry out the mandatory check of List 99 and / or the Protection of Children Act List (POCA) for the previously defined posts. (It is an offence to employ an individual who is the subject of a Barring Order). These can be carried out in conjunction with the **Mandatory** enhanced disclosure via the Criminal Records Bureau (CRB).
- 10.2 Research tells us that many individuals who pose a risk to children will not have any convictions or barring orders, so it is essential that robust checks of employment history and references from previous employers are obtained. **Testimonials presented by the candidate should not be accepted.** Any breaks in employment or anomalies should be actively pursued with the individual.
- 10.3 Soft information that may be disclosed as part of the CRB enhanced disclosure (e.g. no conviction but individual was subject of Section 47 investigation) must be discussed with the candidate before an informed decision can be taken on their suitability to work with children. In such circumstances organisations should consult with the LADO and / or their HR provider.

- 10.4 **Overseas Candidates:** Employers need to ensure that overseas candidates have the legal right to work within the UK and verification of identity is essential. Once this has been established applicants from overseas should be subject to checks other than CRB which would not generally show offences committed by individuals whilst living abroad (other than Service Personnel and their families). In these circumstances employers should seek to obtain a certificate of good conduct from the relevant Police force or Embassy in their country of origin and candidates can request such disclosure themselves which should be followed up by employers. Further information regarding the overseas information service can be obtained from www.crb.gov.uk or telephone CRB Enquiry line on 08700 100 450
- 10.5 It should be recognised that the new Vetting and Barring scheme as defined by the Vulnerable Group Act 2006 is likely to be implemented in Autumn 2008 and this will require that all professionals working with children, including those employed in an advisory capacity, will be required to register as part of the scheme. The scheme will be administered by the Criminal Records Bureau

11. References

- 11.1 Specific questions regarding conduct and sickness record etc., can be put to previous employers in the form of a questionnaire. It is also good practice to follow up anomalies by telephone with referees directly where appropriate.
- 11.2 Employers also need to consider how they respond to reference request for individuals who have been the cause for concern. References should provide objective verifiable information and not subjective opinions.

12. Health

- 12.1 'Working Together to Safeguard Children (2006)' emphasises the importance of anyone appointed to a post involving regular contact with children or young people must be medically fit to do so. It is a statutory duty for employers to satisfy themselves that candidates have the appropriate level of physical and mental fitness **before** appointment. Assessment of physical fitness must also be considered within a context of disability discrimination legislation that allows for reasonable adjustments.

13. Face to Face Interview

- 13.1 All interview panels involved in the appointment of staff to the Children's Workforce should have at least one panel member who is knowledgeable and experienced in safeguarding issues and has received training in this area.
- 13.2 A specific question or scenario relating to child protection should be part of the standard selection procedure to assess the candidate's awareness and responses to safeguarding concerns.

14. Involving Children and Young People

- 14.1 It is good practice to empower service users and involve them in the selection process once relevant risk factors have been considered and overcome.
- 14.2 Agencies should develop a culture of listening to and engaging in dialogue with children – seeking their views in a manner that is appropriate to their age and understanding.

15. Conditional Offer of Employment

- 15.1 Any conditional offer of employment to the successful candidate should be made subject to all satisfactory checks being undertaken **before** they take up the post.
- 15.2 Diligent planning of the recruitment process should prevent individuals taking up their post **prior** to all vetting checks having been completed. **Only in exceptional circumstances should this not be adhered to after risk factors have been considered and no substantial unsupervised access to children has been ensured. Such action should require the written consent of the Organisation's Senior Officer for Child Protection.**

16. Single Central Records

- 16.1 All employers should maintain a single centrally held record of staff employed, dates of appointment, qualifications held and evidence of identity checks and vetting undertaken.
- 16.2 Information disclosed as part of a CRB Disclosure must be treated as confidential, however before the disclosure is destroyed in line with CRB guidance, records need to be kept detailing the date the disclosure was obtained, who obtained it, the level of disclosure and the unique reference number. Apart from this being good safeguarding practice, it is also a source of primary evidence for regulatory bodies who will be looking closely at Safe Recruitment Practice (Appendices).
- 16.3 Exemplar Single Central Record of Vetting (Appendices).

17. Arrangement for Multi-Usage Settings

- 17.1 Increasingly, agencies are co-locating staff to enable integrated services to be delivered. This will enable the needs of children and families to be met more appropriately and in a more responsive way. Where staff from different agencies work on the same site, there is a need for lines of accountability to be clear, and written agreements of standards and expectations provide a format for achieving this.
- 17.2 Registered early years settings for children under 8 years will apply via Ofsted for CRB Enhanced Disclosures in the case of the registered person and the manager. Ofsted will also request Local Authority checks as part of the 'fit person' process. It is the responsibility of the childcare provider to make sure that any new member of staff, or new people who live or work on the premises are suitable to care for or have regular contact with children. Generally, in order to fulfil this responsibility they will have to apply to the CRB for an Enhanced Disclosure.

- 17.3 Written agreements should be in place between any third party providers or groups using a multi-use site including extended schools. These should set out the respective responsibilities of the Governing body / Accountable body and those of the provider or group, for areas such as health and safety, recruitment, vetting checks and insurance arrangements.

18. Complaints Procedures

- 18.1 All Agencies will have Complaints Procedures in place for customers / service users who feel aggrieved about a particular aspect of provision. These generally relate to Service Standards or the conduct of staff. **It is inappropriate for the Complaints Procedure to be used whenever an allegation is made against a member of staff when child welfare is the concern.** In these circumstances specific KSCB procedures informed by 'Working Together to Safeguard Children (2006)' and related guidance should be adopted to ensure effective multi-agency working and transparency.

19. Whistleblowing Procedures

- 19.1 All Agencies should have appropriate Whistleblowing procedures as legislated for in the Public Disclosure Act 1998 and encourage an organisational culture that enables concerns about staff conduct in relation to child welfare to be reported without fear of reprisal.
- 19.2 Safeguarding children is everyone's business and all professionals have a duty to share concerns. It is a potential disciplinary offence not to share concerns that subsequently are discovered to have been known, but not reported.
- 19.3 It is recognised that whistleblowing is a sensitive and potentially divisive issue and staff are fearful of getting it wrong. It is therefore essential that all agencies build this into their recruitment and selection policies and include detail and expectations in induction training for new staff.

20. Managing Allegations Against Staff

- 20.1 The framework for managing allegations of abuse against people who work with children is set out in 'Working Together to Safeguard Children (2006)'. Appendix 5 of this guidance has helped to inform how KSCB is implementing these procedures. All agencies must have a Named Senior Officer who is accountable for ensuring such processes are in place.
- 20.2 Children can be subjected to abuse by those who work or have contact with them in any and every setting. All allegations of abuse and maltreatment of children by a professional, staff member, foster carer or volunteer must therefore be taken seriously and treated in accordance with consistent procedures. KSCB has responsibility for ensuring that there are effective inter-agency procedures in place for dealing with allegations against people who work or have contact with children, and for monitoring and evaluating the effectiveness of those procedures.

- 20.3 Indicative time-scales for completing investigations as laid out in Appendix 5 of 'Working Together to Safeguard Children (2006)' should be adhered to by all agencies whenever possible.
- 20.4 Detailed guidance can be found in Chapter 11 of the Kent and Medway Safeguarding Children Procedures (2007). Any agency / organisation that has a concern and is not sure how to respond can access advice from the Local Authority Designated Officer (LADO).

21 Referral to Registering / Regulatory Bodies

- 21.1 In addition to employers checking an individual's registration with professional bodies (e.g. GSCC, GTC, GMC etc.) and the relevant barring lists at the time of appointment, referrals also need to be considered following criminal prosecution or serious disciplinary action taken against a member of staff.
- 21.2 Protocols are in place within the statutory agencies (Police and Social Services) for the release of evidence, when appropriate, to help inform agency disciplinary investigations. On the conclusion of the case following an allegation against a member of staff, a view will need to be taken by the employer (after consulting with the statutory agencies and HR advisors) whether a referral will need to be made to the registering professional body and / or the Secretary of State for consideration for inclusion on the barring list (List 99, POCA and POVA).
- 21.3 Referrals need to be made directly to the respective professional registering bodies for consideration in line with their standards and procedures.
- 21.4 Referrals to the Secretary of State for consideration for inclusion on a barred list are currently heard by the Children's Safeguarding Operations Unit at the DCSF. (The Safeguarding Vulnerable Groups Act 2006 provides the primary legislation that leads to the implementation of the new Vetting and Barring arrangements in Autumn 2008. The Independent Safeguarding Authority will assume responsibility for merging the existing barring lists under one body and decisions will be taken by a panel of experts established by Sir Roger Singleton.

**Safe Recruitment and Employment
Self Assessment Audit Tool for Posts Involving Contact with Children and Their Families**

Agency:.....

Lead Officer:.....

Date:.....

Expectation of Minimum Standards	Yes	No	Comment	Action Required	Who	When
1 Does your organisation have a current Policy Statement on Safe Recruitment?						
2 Which of the following checks are undertaken prior to appointment?						
a Identity and National Insurance No.						
b CRB enhanced disclosure						
c List 99 / POCA / POVA						
d Check registration with Professional Body						
e Check qualifications (original certificates						
f Undertake references with current / previous employers						
g Do reference requests ask specific questions on pro forma?						
h Do you accept testimonials						
l Do you employ staff from overseas?						
j If yes what checks do you undertake? Statement of good conduct from Embassy / Police in country of origin?						
3 When placing adverts does your organisation:						
a Convey safe culture?						
b Convey Equality issues?						
c State vetting requirements for the post?						

Expectation of Minimum Standards	Yes	No	Comment	Action Required	Who	When
4 Do job descriptions emphasise the individual responsibility for safeguarding children and promoting welfare?						
5 Does your agency provide child protection training as part of induction and safe working practice?						
6 Is CP training provided on a regular basis, at least bi-annually for Designated Person and 3 years for other staff						
7 Have managers involved in selection process received CP training?						
8 Does CP feature in the interview questions as a matter of course?						
9 Are service users involved in the selection process?						
10 Does your agency seek medical evidence that applicants are fit to do the job?						
11 Does your agency adopt a single central record for easy reference on staff vetting and qualifications?						
12 Does your agency have a complaints procedure in place specifically for children?						
13 Does your agency have a Whistleblowing Policy in place?						
- Is this understood and put into practice?						
14 Does your agency have specific procedures in place for managing allegations of a child welfare nature?						

Expectation of Minimum Standards	Yes	No	Comment	Action Required	Who	When
15 Does your agency maintain a single central record of misconduct cases referred to regulatory bodies (eg List 99, POCA, POVA, GTC etc)						
16 Is your agency accepting in principle to sign up to the KSCB Safe Recruitment and Employment Standards?						
Any other comments						

