

Child Protection and Safeguarding Policy Education Scotland

February 2021

Foreword

Education Scotland actively promotes the welfare and wellbeing of its employees and of all children, young people and adults whom Education Scotland staff come in contact with during any form of engagement across Scottish schools and educational establishments.

In particular, as an organisation we are committed to ensuring:

- children's and young people's rights to care and protection from harm in any form are firmly upheld as outlined within [United Nations Convention on the Rights of the Child \(UNCRC\)](#)
- adult learners' personal interests, dignity and care, protection from harm are safeguarded;
- we fulfil our legislative duties related to safeguarding, including child protection;
- the interests of all Education Scotland staff are safeguarded as they go about their work and engage with learners of all ages; and
- all staff within Education Scotland, including Corporate Services personnel, are suitably trained in how to respond to safeguarding matters.

Safeguarding Policy

This policy provides the framework within which Education Scotland staff, individually and collectively, can understand their responsibilities in relation to safeguarding, child protection and promoting the welfare of children (1) and protected adults (2).

1. Differing legal definitions of the age of a 'child' can be confusing. The priority is to ensure that a vulnerable young person who is or may be at risk of harm is offered support and protection. References within this policy to children are intended to refer to children and young people up to the age of 18 years.

2. A protected adult is defined as an individual aged 16 or over who is provided with (and thus receives) a type of care, support or welfare service. Protected adult is therefore a service based definition and avoids labelling adults on the basis of them having a specific condition or disability.

What do we mean by Child Protection and Safeguarding?

Child Protection - The processes involved in consideration, assessment and planning of required action, together with the actions themselves, where there are concerns that a child may be at risk of harm from abuse, neglect or exploitation.

Safeguarding - This is a much wider concept than child protection and refers to promoting the welfare of children, young people and protected adults. It encompasses protecting from maltreatment, preventing impairment of their health or development, ensuring that they are growing up in circumstances consistent with the provision of safe and effective care, and taking action to enable all children, young people and protected adults to have the best outcomes. Child protection is part of this definition and refers to activities undertaken to prevent children suffering, or likely to suffer, significant harm.

We have a distinctive approach to safeguarding in Scotland linked to Getting It Right for Every Child (GIRFEC) which promotes action to improve the wellbeing of every child and young person. Safeguarding is a golden thread that runs through the curriculum. The aim is to support the development of learner's knowledge, skills and resilience to keep themselves safe and protected, and to develop an understanding of the world so that they can respond to a range of issues and potential risky situations arising throughout their lives. As such, it permeates many features of the education experience including leadership, values, vision, the curriculum, learning and teaching, positive relationships, building learner resilience and suchlike.

In all Education Scotland's work, the needs, interests and wellbeing of children and young people and protected adults must be put above the needs and interests of all others. Hence, this Policy and the guidance contained within it must have priority over all other policies and advice.

Educators in Scotland will :

Providers of education in Scotland will enable children, young people and adults to be safe, nurtured, achieving, healthy, active, included, respected and responsible; and children, young people and adults in Scotland to become successful learners, confident individuals, responsible citizens and effective contributors in centres of learning, the workplace and the community.

We will do this by:

- always putting the needs of, and desired outcomes for, children and adult learners in centres of learning, the workplace and the community at the forefront;
- accounting rigorously and clearly to them, their families, Ministers and the people of Scotland on the quality of education and other services; and
- promoting high quality equitable outcomes for all learners by eliminating inequity that exists amongst learners from different backgrounds and particular vulnerable groups.

In carrying this out, Education Scotland staff recognise their professional and legal obligations to protect children, young people and adult learners, particularly those at risk. Education Scotland will promote safe practice to protect children, young people and adults from harm, abuse and exploitation.

This policy aims to ensure that:

- Education Scotland operates a robust and safe selection and appointment process which requires all employees who have opportunities to engage regularly with children in the course of their normal duties be members of the Protecting Vulnerable Groups (PVG) Scheme and to participate in relevant professional learning;
- during all forms of engagement, we create a safe environment for children, young people and adults at risk, and the adults who work with them;
- Education Scotland staff are equipped with the information, knowledge, support and guidance to keep children, young people and adults at risk, safe and protected; and
- we take account of local inter-agency child protection guidelines and each local authority's legal obligation to safeguard and protect any group at risk, including children and protected adults.

Principles of this Policy

- The welfare and rights of all children, young people and protected adults are always the primary concern;
- Protecting children, young people and protected adults is everyone's responsibility;
- Every child, young person and protected adult should be treated as an individual and has a right to a positive sense of identity.
UNCRC Article 8 (right to preserve identity);
- All children, young people and protected adults have the right to be protected from all forms of abuse, neglect and exploitation.
UNCRC Article 19 (protection from all forms of abuse or neglect);
- All children, young people and protected adults have the right to express their views on matters affecting them.

UNCRC Article 12 (right to have views taken into account on all matters that affect them).

To promote these principles we will:

- treat everyone with respect and encourage children, young people and protected adults to respect others;
- promote the rights, including privacy and dignity, of children, young people and protected adults as defined by the [United Nations Convention on the Rights of the Child \(UNCRC\)](#);
- respect confidentiality and only share information and concerns about children, young people and protected adults with those who need to know;
- take action to stop any inappropriate verbal or physical behaviour and emotional abuse, including bullying;
- treat all concerns and allegations seriously and respond appropriately, operating within our agreed policy, procedures and guidance; and
- refer our concerns, not investigate.

Everyone has a responsibility to protect young people and protected adults.

Every child, young person and protected adult, at all times, has a right to feel safe and protected from any situation or practice which may result in harm.

Above all, the welfare of children, young people and protected adults is the paramount consideration and we must all work together to ensure they are protected.

Policy and legislative context

The Children & Young People (Scotland) Act places a duty on schools and local authorities to safeguard and promote the welfare of all children.

<https://www.legislation.gov.uk/asp/2014/8/contents/enacted>

Safeguarding sits within the context of the wider Getting it right for every child (GIRFEC) approach, <https://www.gov.scot/policies/girfec/> the Early Years Framework, <http://www.scotland.gov.uk/Publications/2009/01/13095148/0> and the UN Convention on the Rights of the Child, http://www.unicef.org.uk/Documents/Publicationpdfs/UNCRC_PRESS200910web.pdf .

The Scottish Government wants Scotland to be the best place in the world for children and young people to grow up so that they become successful learners, confident individuals, effective contributors and responsible citizens. All children and young people have the right to be cared for and protected from harm and abuse and to grow up in a safe environment in which their rights are respected and their needs met. Children and young people should get the help they need, when they need it and their safety is always paramount.

Getting it right for every child (GIRFEC) promotes action to improve the wellbeing of all children and young people in eight areas. The wellbeing indicators aspire for all children and young people to be healthy, achieving, nurtured, active, respected, responsible, included and, above all in this context, safe. The primary indicator for child protection is to keep a child safe and, in so doing, attention is given to other areas of wellbeing as appropriate.

[The Children and Young People \(Scotland\) Act 2014](#) sets out duties on a range of public bodies to report on how they are taking forward children's rights as set out in the UNCRC. Moreover, ratified by the UK Government in 2009, the UN Convention on the Rights of Persons with Disabilities stipulates that in order for disabled children to be able to realise the rights mentioned above, they need to have disability and age appropriate assistance.

In addition to the Convention, the [Children's Charter](#) was drawn up following consultation with children and young people as part of the Scottish Government's child protection reform programme. The Charter sets out a list of demands children should feel entitled to make including the need to be safe.

The National Guidance for Child Protection in Scotland 2014

<http://www.gov.scot/Resource/0045/00450733.pdf> provides a national framework within which agencies and practitioners at local level – individually and jointly – can understand and agree processes for working together to support, promote and safeguard and the wellbeing of all children. It sets out expectations for strategic planning of services to protect children and young people and highlights key responsibilities for services and organisations, both individual and shared. All agencies, professional and public bodies and services that deliver adult and/or child services and work with children and their families have a responsibility to recognise and actively consider potential risks to a child, irrespective of whether the child is the main focus of their involvement. They are expected to identify and consider the child's needs, share

information and concerns with other agencies and work collaboratively with other services (as well as the child and their family) to improve outcomes for the child.

It is worth noting that the 2014 guidance is currently subject to review, and updated guidance is expected early in 2021.

Across Scotland, local arrangements are now well established to meet local geographic and demographic demands and service user needs. Chief Officers are responsible for determining the most appropriate child protection arrangements for their respective area(s). Chief Officers' Groups have strategic responsibility for their Child Protection Committees (CPCs). Further information on the role and functions of CPCs can be found in the National Guidance for Child Protection in Scotland 2014.

Child protection policy must pay due attention to equality and diversity issues. Access to, and delivery of, child protection services should be fair, consistent, reliable and focused on individual outcomes and enablement. Service users should be listened to, respected and responded to. There should be no discrimination on the grounds of race, disability, gender, age, sexual orientation, religion or belief, gender reassignment or on the basis of pregnancy and maternity. [The Equality Act 2010](#) restates, streamlines and harmonises equality legislation.

The 'Common Core of Skills, Knowledge & Understanding and Values for the "Children's Workforce" In Scotland' (2012) - <http://www.gov.scot/Resource/0039/00395179.pdf> describes the essential characteristics that everyone should have if they work with children, young people and their families. These essential characteristics embody the values of the Getting it right for every child (GIRFEC) approach are cross-referenced to the guiding principles of the UNCRC:

- Non-discrimination;
- Best interests of the child;
- The child's right to life, survival and development; and
- Respecting the views of the child.

Education Scotland has a support and monitoring duty within the context of safeguarding in relation to Prevent, Section 26 of the Counter-terrorism and Security Act, 2015, which places a duty on central bodies to have 'due regard to the need to prevent people being drawn into terrorism'

[Prevent Duty Guidance](#)

The Children and Young People (Scotland) Act 2014 puts Corporate Parenting on a statutory footing and introduces a new framework of duties and responsibilities for the 24 public bodies listed in Schedule 4 as corporate parents. Education Scotland, as an Executive Agency of the Scottish Government is subject to the corporate duties set out in Part 9 of the Act. These duties require all corporate parents to collaborate with each other to promote the wellbeing of looked after children and care leavers in their care and enable them to achieve the best outcomes.

Corporate parents' compliance with the legislation will be monitored through the review of corporate parenting reports (by Scottish Ministers), independent inspection mechanisms (such

as those provided by the Care Inspectorate, Education Scotland, Healthcare Improvement Scotland and Her Majesty's Inspector of Constabulary in Scotland) and corporate parents' existing governance arrangements (such as councillors, parliamentarians and non-executive board members).

Education Scotland's Corporate Parenting Plan 2020-2023 outlines how we intend to execute their corporate parenting duties.

Independent Schools

As for all staff in local authority establishments, all staff in independent schools, whether or not grant-aided, have a responsibility to ensure that the children in their care are not harmed. This applies to teachers and all other practitioners, but has added force in schools with a boarding or residential facility. The Education (Scotland) Act 1980 places a statutory duty upon the managers of independent boarding schools to safeguard and promote the welfare of children resident in their schools, or another place under arrangements made by their schools.

The Public Services Reform (General Teaching Council for Scotland) Order 2011 and the Protection of Vulnerable Groups (Scotland) Act 2007 strengthened the provisions which ensure that teachers in independent schools (as well as other persons in child care positions) meet the necessary standards to enable them to work with children. From 1 October 2020 all teachers in independent schools must be GTCS-registered. Anyone who has cause for concern about a child or young person should share information according to their organisation's local protocol.

All agencies and organisations working with children and young people are expected to have child protection procedures in line with local procedures. For example, the Scottish Council for Independent Schools (SCIS) can provide the sector support and professional learning <http://www.scis.org.uk/professional-learning/?year=2020&month=08> on child protection including publication of guidance: Guidance on Wellbeing and Child protection 2015 <http://www.scis.org.uk/information-for-parents/safeguarding/> SCIS works closely with the Boarding Schools Association (BSA), which upholds a Commitment to Care Charter (2017) encompassing child protection.

Post-school education

The Adults with Incapacity (Scotland) Act 2000 and the Protection of Vulnerable Groups (Scotland) Act 2007 iterate the rights detailed in the United Nations Convention on the Rights of the Child, 1991, and the Human Rights Act 1998 for vulnerable adults. In terms of private or independent providers Education Scotland only engages with them in certain circumstances, for example where they might be delivering programmes which are publically funded (e.g. when we are reviewing/inspecting Modern Apprenticeship provision) or where UKVI or British Council is involved (where provider has international students and needs Tier 4 status).

Summary of responsibilities of Education Scotland staff

Education Scotland does not have direct responsibility for the delivery of services, or for investigating matters related to safeguarding or child protection. Education Scotland is committed to promoting the welfare and wellbeing of its employees and all children, young people and adults who staff come in contact with during all our work. Safeguarding is the responsibility of everyone in Education Scotland regardless of their individual role.

This policy, together with our Safeguarding code of practice and guidance and appropriate professional learning will support our staff in fulfilling their safeguarding responsibilities and duties. We have both an internal safeguarding role in terms of supporting staff in dealing with safeguarding responsibilities and duties as well as an outward facing role through capacity building, inspection and review and providing professional policy advice.

We will support all our staff and ensure they:

- are appointed following appropriate and stringent safe recruitment procedures;
- are supported through appropriate professional learning to raise their awareness of the need for safeguarding children, young people and protected adults, know their responsibilities and are familiar with the procedures to follow when they have concerns; and
- take actions to respond to allegations, suspicions or incidents of abuse and ensure all safeguarding concerns are shared with the relevant head of establishment/service/education authority/governing body in order that they can take appropriate action.

We will build capacity by supporting professional learning communities and networks of key educational staff from local authorities and the independent school sector, who are responsible for supporting educational establishments and services with safeguarding matters. Our focus will be on supporting others to undertake their safeguarding responsibilities.

We will support and promote the development of the 'Getting it right for every child approach to safeguarding' through a responsive, flexible and inclusive framework within Curriculum for Excellence. The aim is to support the development of children's and young people's knowledge, skills and resilience to keep themselves safe and protected and to develop an understanding of the world so that they can respond to a range of issues and potential risky situations arising throughout their lives.

Through inspection and review, we will:

- ensure a strong focus on how well education providers carry out their responsibilities in a manner which safeguards children, young people and protected adults;
- evaluate how well education providers have appropriate safeguarding procedures in place and that these are both linked or built into locally agreed multi-agency procedures; and

- provide assurance to the public and Ministers that education providers are fulfilling their responsibilities in ensuring the safety and wellbeing of children, young people and protected adults.

We will provide professional advice on developing policy working with the Scottish Government, the Registrar for Independent Schools, other agencies and local and national partners particularly in relation to child protection, Prevent, Child Sexual Exploitation, and by contributing to the Scottish Child Abuse Inquiry to develop strategies that are designed to prevent and/or reduce the risk of abuse from occurring.

We will deliver on our statutory duties in relation to Corporate Parenting towards care experienced children and young people.

We will, in partnership with Scottish Government monitor Glow reports of concern.

How Education Scotland will discharge its responsibilities for safeguarding

We have put in place the following measures to ensure we deliver on our responsibilities and duties in relation to safeguarding.

Responsible officers

In order to ensure that we discharge our responsibilities appropriately, we have:

- a designated Strategic Director, with responsibility for the strategic oversight of all aspects of safeguarding within Education Scotland and who is accountable to the Chief Executive Officer (CEO);
- a designated Head of Inclusion, Wellbeing & Equalities with line management responsibilities, and management reporting responsibilities for safeguarding;
- Safeguarding Lead Officers & SEO with the operational and project management responsibilities for safeguarding, including dealing with disclosures and referrals, the provision of advice and guidance to Education Scotland staff in dealing with disclosures and referrals, and the oversight of advice and guidance for safeguarding;
- a designated Human Resources (HR) officer for the oversight of all recruitment and Human Resources HR functions relevant to Education Scotland's safeguarding responsibilities as an employer, including those in respect of appointing secondees, Assistant Inspectors, and Lay Members;
- administrative support safeguarding officers; and
- ***a cross-directorate safeguarding working group to provide guidance and oversight and support within the teams the members represent.***

Safeguarding Lead Officer / SEO Safeguarding role

Working with the Strategic Director, the Safeguarding Lead Officers & SEO Safeguarding will:

Leadership

- provide leadership and advice across Education Scotland in relation to all aspects of safeguarding;
- act as the first point of contact for advice on safeguarding disclosures and referrals for members of staff and for external bodies;
- provide the Strategic Director and Head of Inclusion, Wellbeing & Equalities with advice and regular updates on safeguarding matters and their implications for on-going professional learning of staff; and
- work with the Head of Inclusion, Wellbeing & Equalities to ensure the above responsibilities are met in full;
- ensure that Education Scotland's policies, procedures and guidance on managing safeguarding and inspecting safeguarding are reviewed at least annually and kept up to date in line with Scottish Government policies and relevant legislation; and
- inform staff of Education Scotland's policy and procedures and make them aware of their roles and responsibilities in recognising and acting upon indicators that a child's, young person's or protected adult's welfare or safety may be at risk.

Concerns

- ensure that staff are clear of protocols and take positive actions to respond to allegations, suspicions or incidents of abuse;
- record all concerns using relevant safeguarding reports, and monitor follow-up activity to ensure all appropriate action is taken;
- monitor the nature and the outcome of causes of concern to identify patterns; and
- take action to ensure the line manager, HR or the person's employer is informed where a safeguarding allegation is made against any member of staff.

Professional learning

- ensure that all staff are aware of the need for safeguarding children, young people and protected adults and that staff are familiar with the procedures to follow when they have concerns;
- liaise with HR to co-ordinate professional learning for Education Scotland staff and work with other agencies to provide effective professional learning on safeguarding;
- provide guidance on inspecting safeguarding;
- advise and support sector and other Lead Officers in drafting supplementary guidance on inspecting safeguarding; and
- advise and support senior inspectors in responding to queries about inspection methodology with regard to safeguarding.

Joint working

- work with Scottish Government, other agencies and local and national partners to respond to national and local initiatives and to develop strategies that are designed to prevent or reduce the risk of abuse;
- work with the Care Inspectorate to support the safety and wellbeing of people who use or are eligible to use care services; and

- work with the Registrar for Independent Schools to provide independent scrutiny of education provision through various means including inspection of independent schools.

Reporting

- provide regular reporting on safeguarding practice to the Head of Inclusion, wellbeing & equalities to allow updating of senior leadership team at least biannually;
- maintain an on-going summary and end-of-year evaluation of relevant issues, including the implementation of Education Scotland's safeguarding procedures, an analysis of enquiries, queries and referrals made to Education Scotland; and
- advise the Registrar for Independent Schools, Scottish Government Official and Ministers of any action required to safeguard children and vulnerable adults including any advice that needs to be given to other statutory bodies, for example the Care Inspectorate.

If you have any comments or questions about this policy or would like further information, please contact Enquiries@educationscotland.gov.uk

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