

‘Keeping our School Safe’

Review of Safeguarding Arrangements
in Independent Schools, Non-Maintained
Special Schools and Boarding Schools
in England

Sir Roger Singleton
March 2009



Independent Safeguarding Authority

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Tuesday 10 March 2009

Dear Secretary of State

Last October you asked me to review the practical application of safeguarding provisions and procedures as they apply to independent schools, non-maintained special schools and boarding schools. You wanted me to consider whether best practice is common practice; identify areas for improvement; and make recommendations for changes which would strengthen the current arrangements.

I enclose my report.

In short, my findings are that the present regulatory framework as it applies to safeguarding children has developed to meet varying needs and circumstances over the past ten years and now needs rationalising. The time has come to take a fresh and holistic look aimed at simplifying and reducing the regulatory burden on schools whilst at the same time eliminating overlap and inconsistency, filling gaps and updating requirements. That is my principal recommendation.

I found evidence of excellent practice on the part of schools including heads, staff and governors and their associations, inspectorates, local safeguarding children boards, local authorities and DCSF itself. Most reassuring were the actions and initiatives of many key individuals who were determined to give appropriate priority to keeping children safe and to encouraging and promoting the development of good practice.

But I have to say that there is scope for substantial improvement. Good practice is not yet universal practice and many of my recommendations are directed towards the promotion of sensible proportionate safeguarding measures by improving procedures and local liaison and by ensuring a proper separation of the duty to implement safeguarding arrangements from that of monitoring them. I understand Lord Laming is also sending you today his report, 'The Protection of Children in England: A Progress Report', and I am confident that my recommendations are compatible with his proposals.

The comments and recommendations in my report refer to independent schools, non-maintained special schools and boarding schools as these are the categories of schools that you asked me to consider. You might

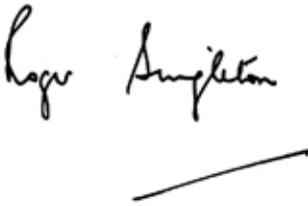


Independent Safeguarding Authority

wish to reflect on whether some of the changes I propose would equally benefit pupils in schools that are outside the scope of this review.

I received a great deal of considered thought and had the benefit of much varied experience from the many people who contributed to the review. I am grateful to them all. I also want to record my particular thanks to Jan Stockwell from your Department for her energetic and diligent work. She placed her extensive knowledge of both DCSF and the wider educational world at my disposal and her contributions were invariably helpful, objective and discreet.

I hope you find the report useful.



Sir Roger Singleton

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Foreword

As I was putting the final touches to this report, my elder grandson, Jude, aged 5½, telephoned. He wanted to let me know he had been appointed to his School Council and had been to his first meeting. ‘What did you talk about?’ I asked. ‘Keeping our school safe’ he replied. It seemed timely.

Introduction

- 1.1 The Secretary of State for Children, Schools and Families announced on 22 October 2008 that he had asked me, as Chair of the Independent Safeguarding Authority, to lead a review of safeguarding arrangements in independent schools, non-maintained special schools and all boarding schools in England. The purpose of the review was to examine the practical operation of the current statutory and non-statutory safeguarding arrangements that apply to these schools, and to make any recommendations where practice could usefully be improved. The terms of reference of the review are attached at Annex 1.

Conduct of the review

- 1.2 The review was conducted by means of a series of structured interviews, visits and a questionnaire to schools. The review also received written evidence from stakeholders. The list of organizations that I consulted and from whom I took evidence is attached at Annex 2. A copy of the questionnaire to schools is attached at Annex 3. Completed questionnaires were received from some 300 schools, just over 10% of schools in scope of the review.

Schools within scope of the review

- 1.3 There are around 2,520 independent schools in England, including Academies, City Technology Colleges (CTCs) and City Colleges for the Technology of the Arts (CCTAs); some 73 non-maintained special schools; 124 maintained residential special schools; and 34 state boarding schools. School openings and closures mean the exact numbers fluctuate, but the schools in scope number approximately 2,750.
- 1.4 Independent schools in England are registered with the Department for Children, Schools and Families (DCSF) under part 10 of the Education Act 2002. Of the independent schools in England, around 765 are classified as boarding schools, catering for a mix of day and boarding pupils, including some 215 schools that are also classified as children's homes. They range in size from schools registered to provide full-time education for one pupil of compulsory school age with a statement of special educational needs or looked after by a local authority (LA), to schools

with over 2,500 pupils. Over 600,000 children, or more than 7% of the pupil population in England, are educated in independent schools.

- 1.5** Some 1,150 independent schools are members of associations affiliated to the Independent Schools Council (ISC). These schools cater for around 80% of children educated in independent schools. Schools that are members of ISC affiliates are inspected by the Independent Schools Inspectorate. There are other associations of independent schools that also have dedicated inspection arrangements: the Focus Learning Trust, whose schools are inspected by the Schools Inspection Service; and the Association of Muslim Schools and the Christian Schools Trust, whose schools can choose to be inspected by the Bridge Schools Inspectorate if the DCSF agrees, otherwise they are inspected by Ofsted. All independent schools that are not members of any of the associations listed above are known as 'non-association' and are also inspected by Ofsted. The section on inspection arrangements below sets out the arrangements in more detail, and explains the additional arrangements for inspecting the welfare of boarders in boarding schools and residential special schools.
- 1.6** Academies are all-ability, legally independent but state funded schools which are sponsored by organisations from a wide range of backgrounds, including universities and colleges, educational trusts, charities, the business sector and faith communities. There are currently 133 Academies open. I am informed that up to 80 are due to open in September 2009 and a further 100 in September 2010.
- 1.7** City Technology Colleges (CTCs) are independent schools and teach subjects of the national curriculum pre-16 with a specific focus on Science and Technology. Since 2005 12 CTCs have converted to Academies. There are currently two CTCs. The only City College for the Technology of the Arts focuses on the technology of the performing arts.
- 1.8** Non-maintained special schools are independent schools run by charities or charitable trusts and operate on a not-for-profit basis, catering for children with special educational needs (SEN), generally those children with the most complex and severe needs. They are inspected by Ofsted under the same arrangements, and have to meet the same standards, as those that apply to maintained special schools. They also have to have similar governance arrangements. All children placed in non-maintained special schools have to have a statement of SEN unless they are placed there for assessment. They are approved under section 342 of the Education Act 1996.

- 1.9** Maintained special schools are those which are maintained by local authorities. A special school is defined as a school that is “specially organised to make special educational provision for pupils with special educational needs” (Section 337 of the Education Act 1996). Only maintained residential special schools are within scope of this review, and these are maintained special schools that also offer boarding facilities. In 2008 there were 124 maintained special schools recorded as having boarding facilities.
- 1.10** State boarding schools are maintained schools that also offer boarding. UK and other European Union nationals and others with the right of residence in the UK pay only for the cost of boarding, while the education is free. All state boarding schools offer a mix of day and boarding places. They have the same relationship with their local authority as other maintained schools. They are inspected by Ofsted under the same arrangements, and have to meet the same education standards, as those that apply to other maintained schools.

Schools’ own governance arrangements for ensuring compliance and good practice

- 1.11** All non-maintained special schools, maintained residential special schools and state boarding schools are required to have governing bodies. Academies and CTCs/ CCTAs are set up as companies limited by guarantee with charitable status, and are required by DCSF as part of the Funding Agreement to constitute a governing body under their Memorandum and Articles of Association, hence they also operate under the control of a governing body. Independent schools are run by a ‘proprietor’, which for the purposes of the Education Act 2002 and regulations made under the Act, means the person or body of persons responsible for the management of the school and can include a sole proprietor, formally constituted governing bodies, Trustees or Directors. Independent schools are free to decide for themselves whether to have a governing body. Over half of independent schools are registered charities and as such are required to have trustees. Some 1,000 independent schools are run by limited companies or individual proprietors. Some of the associations affiliated to the ISC make the possession of a governing body a requirement for membership.

How the current safeguarding arrangements work – the theory

2.1 To understand how current safeguarding arrangements are intended to operate, it is helpful to consider how the following areas impact on schools' policies and practices:

- The regulatory frameworks and standards that set out the practice schools must adopt
- Where responsibility lies within schools to ensure that practice conforms with statutory requirements, and to develop good practice beyond the statutory minimum
- The role of the registering authorities in approving schools to open for operation, and in pursuing with them any failure to comply with safeguarding requirements
- The role of inspection in monitoring schools' compliance with safeguarding standards
- The role of local statutory safeguarding authorities.

Regulatory frameworks and standards

2.2 I consider it necessary to set out the legislative frameworks and mandatory standards which apply to schools within scope. This does not make exciting or easy reading. But perhaps it serves to illustrate my concern about the bewildering array of regulatory frameworks to which schools are currently subject.

Independent Schools

2.3 Independent schools, including Academies and CTCs/CCTAs, must meet the standards specified in regulations made under Section 157 of the Education Act 2002 – the Education (Independent School Standards)(England) Regulations 2003 as amended in 2004, 2007 and 2008. Independent schools which also care for children from birth to age three are further required to be registered with Ofsted under the Childcare Act 2006 and must comply with the Early Years Foundation Stage.

- 2.4** Independent schools which provide boarding are also subject to the duty in s.87 of the Children Act 1989 to safeguard and promote the welfare of children at the school. Inspection of this duty includes the school's compliance with the National Minimum Standards (NMS) for boarding schools issued under s.87C of the 1989 Act as amended by the Care Standards Act 2000. Compliance with the NMS is also secured within the Education (Independent School Standards) (England) Regulations as amended. Independent schools which provide boarding or arrange accommodation for more than 295 days a year are also required to register as children's homes and are subject to the requirements of the Care Standards Act 2000, including the Children's Homes Regulations 2001. They are further expected to comply with the National Minimum Standards for children's homes.

Non-Maintained Special Schools

- 2.5** Non-maintained special schools must meet the standards specified in regulations made under Section 342 of the Education Act 1996– the Education (Non-Maintained Special Schools) (England) Regulations 1999. Most non-maintained special schools provide boarding, and are also subject to the duty in s.87 of the Children Act 1989 to safeguard and promote the welfare of children at the school; and consequently must comply with the National Minimum Standards for residential special schools (also made under s.87C of the Children Act 1989 as amended by the Care Standards Act 2000).

Maintained Boarding Schools

- 2.6** Boarding schools in the maintained sector are also subject to the duty in s.87 of the Children Act 1989 to safeguard and promote the welfare of children at the school, and must meet the standards specified in the National Minimum Standards for residential special schools or the National Minimum Standards for boarding schools depending on their particular status. Maintained boarding schools and residential special schools also fall under the provisions of section 175 of the Education Act 2002 which requires the governing bodies of maintained schools to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children. In addition, they must have regard to any relevant guidance issued by the Secretary of State.
- 2.7** Employers in all types of school are required to supply information to DCSF¹ where they have ceased to use the services of a person because they consider him/her unsuitable to work with children. The circumstances include dismissal and

1 From January 2009 this information must be supplied to the Independent Safeguarding Authority

resignation. The information which has to be provided is listed in the Education (Prohibition from Teaching or Working with Children) Regulations 2003.

- 2.8** Additionally in 2006, DCSF issued statutory guidance to all local authorities, all schools and further education colleges setting out their responsibilities to safeguard and promote the welfare of children and young people, 'Safeguarding Children and Safer Recruitment in Education'².
- 2.9** The Education (Independent School Standards)(England) Regulations 2003 as amended set out the standards which independent schools must meet to be approved to operate, and against which they are inspected. Inspectors report to the registering authority (DCSF) on the extent to which the standards are met and this, together with any other evidence, will determine whether to register a new school or take enforcement action against an existing one.
- 2.10** The relevant provisions in the Schedule to the Regulations for the purpose of this Review are:
- Paragraph 3 (2) b which requires the school to draw up and implement effectively a written policy to 'safeguard and promote the welfare of children who are pupils at the school, which complies with DCSF Guidance 'Safeguarding Children and Safer Recruitment in Education'
 - Paragraph 3 (3) 'Where a school provides accommodation, it shall have regard to the National Minimum Standards for Boarding Schools or where applicable the National Minimum Standards for Residential Special Schools.'
 - Paragraphs 4 to 4C. These paragraphs address the checks which must be undertaken prior to the appointment of new staff, supply staff and in relation to the proprietor, and the keeping of a central register of checks made.
- 2.11** The National Minimum Standards for boarding schools (and also for residential special schools and children's homes) adopt a different approach. They provide standards below which no school is expected to fall in safeguarding and promoting the welfare of boarders. There are 53 standards (33 in the case of residential special schools and 36 in the case of children's homes). Whilst there is cross referencing between the Education (Independent School Standards)(England) Regulations 2003 as amended and the National Minimum Standards there is also some overlap and some inconsistencies. These are explored in detail in the section of this report

2 <http://publications.teachernet.gov.uk/eOrderingDownload/Final%206836-SafeGuard.Chd%20bkmk.pdf>

on ‘How the regulatory frameworks and standards measure up to expectations’ below.

Where responsibility for safeguarding lies within the school

- 2.12** The duties that flow from the regulatory frameworks and standards set out above fall on the *governing bodies* of all maintained schools and non-maintained special schools, and on the *proprietors* of all independent schools. In practice, the implementation of the school’s policies will be taken forward by the headteacher and the designated senior person for child protection (where the headteacher does not carry that role), but the responsibility for ensuring that correct arrangements are in place and operating rests with the governing body or proprietor. In the case of an independent school where there is no governing body and the proprietor is also the headteacher and the designated person for child protection, this can mean that the roles of implementation and oversight reside in the same person.

Regulatory action

- 2.13** The DCSF is the registering authority for independent schools, including academies, CTCs/CCTAs, and for non-maintained special schools. The role of the registering authority is to satisfy itself that the school meets the necessary requirements to be allowed to operate, and continues after approval of the opening of the school, to monitor the continuing compliance of the school with statutory requirements, and to require and enforce remedial action if the school fails to provide evidence of compliance. DCSF has mechanisms for identifying and monitoring schools causing concern. The local authority in which a maintained residential special school or a state boarding school is located would be responsible for taking action if failings were identified in those schools. Both DCSF and LAs use the inspectorates’ reports to inform their monitoring activities, and can request an extraordinary inspection of a school if they become aware of concerns about the school’s safeguarding conduct.

The role of inspection

- 2.14** Academies, CTCs/CCTAs, non-maintained special schools, maintained residential special schools and state boarding schools are all subject to inspection by Ofsted under s.5 of the Education Act 2005, and this inspection includes their performance against statutory safeguarding requirements.
- 2.15** Independent schools are subject to inspection under s.162A of the Education Act 2002, to ensure that they comply with The Education (Independent School

Standards) Regulations 2003 as amended – again, including compliance with statutory safeguarding requirements. Ofsted conducts the s162A inspections of all non-association schools. Separate arrangements are in place for s.162A inspections of schools in membership of one of the associations which make up the Independent Schools Council (ISC); in schools which are affiliated to the Focus Learning Trust; and in schools affiliated to the Christian Schools' Trust or the Association of Muslim Schools UK where this is agreed by the Department for Children Schools and Families. The educational provision in these schools is inspected by the Independent Schools Inspectorate (ISI), the School Inspection Service (SIS) and the Bridge Schools Inspectorate respectively. The work of the other independent inspectorates (or 'sectoral inspectorates') is monitored by Ofsted on behalf of DCSF to ensure quality and consistency; and the Department has reserved the right to request Ofsted to inspect any independent school at any time.

2.16 As well as inspecting compliance with The Education (Independent School Standards) Regulations 2003 as amended, the sectoral inspectorates also inspect schools' continuing compliance with the membership criteria for the associations to which they are affiliated and other aspects of the school's performance; such as, in the case of the ISI and SIS, the quality of their management and leadership, and, in the case of the Bridge Inspection Service, whether the school's religious ethos continues to meet the expectations of its association. To this end, all the sectoral inspectorates use inspection teams that are led by a professional inspector, but also include trained peer inspectors as team or lay inspectors – typically experienced and serving senior teachers and managers from schools within the relevant association, whom the inspectorates consider bring additional professional insights. The additional, non-statutory elements of the inspection reports are not monitored by the DCSF as registering authority, but are sent to the relevant association to pursue directly with the school if appropriate.

2.17 In addition to the inspection of safeguarding as part of schools' education inspection outlined above, all boarding schools and residential special schools are subject to a separate inspection of the welfare of boarders, that measures their compliance with their duty to safeguard and promote the welfare of children accommodated at the school (section 87 of the Children Act 1989 as amended by the Care Standards Act 2000). This will include the school's compliance with the National Minimum Standards for boarding or the NMS for residential special schools, as appropriate. Schools which are also registered as children's homes are subject to additional inspection against the requirements applying to children's homes in and under Part I of the Care Standards Act 2000, and the NMS for children's homes. These

inspections are carried out by Ofsted, which took over responsibility for them from the Commission for Social Care Inspection (CSCI) on 1 April 2007.

Local statutory safeguarding arrangements

- 2.18** County level and unitary local authorities are responsible for establishing a Local Safeguarding Children Board (LSCB) in their area and ensuring it is run effectively. The LSCB is responsible for developing policies for safeguarding and promoting the welfare of children in the area of the LA, in relation to the training of people who work with children or in services affecting the safety and welfare of children. Although schools are not statutory members of LSCBs, the LA is expected at a minimum to ensure state and independent schools are represented and involved, via existing networks or forums, or by encouraging and developing suitable networks or forums to facilitate communication between these organisations and the LSCB. The statutory guidance for LSCBs ‘Working Together to Safeguard Children’³ stresses the importance of training involving and being available to all relevant partners; and of the needs of those partners that are not part of a local Children’s Trust being included when training arrangements are set up.
- 2.19** Local authorities are responsible for ensuring that maintained schools in their area are aware of their responsibilities for safeguarding children; monitoring their performance; making available appropriate training, model policies and procedures; providing advice and support; and facilitating links and cooperation with other agencies. LAs may provide these services to independent schools also, and charge appropriate fees, but they have no obligation to do so.
- 2.20** LAs placing a pupil with a statement of special educational needs in an independent school, non-maintained special school or maintained residential special school are required to assure themselves that the school is suitable to meet the child’s age, ability, aptitude and SEN. The placing LA is responsible for monitoring the placement of a child with a statement of SEN in a residential setting. All statements must be reviewed at least annually. This ensures that at least once a year the parents, the pupil, the LA, the school and all the professionals involved, consider the appropriateness of the placement, as well as whether any changes are required to the statement.
- 2.21** For LAs placing a looked after child in an independent school, non-maintained special school or maintained residential special school, it is the responsibility of the social worker to ensure that the school placement is not made unless it is

3 http://www.everychildmatters.gov.uk/_files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf

appropriate to the child's educational needs. In practice, they will do this in consultation with the local authority's looked after children education team. The suitability of the placement must be tested by arranging a visit with the child. If a child is placed in a school outside of their home local authority area, the responsible local authority should ensure that the child's identified educational needs will be effectively met in the proposed placement before it is agreed. The LA looking after the child has responsibility for reviewing the child's care plan on a regular basis, in consultation with the child.

Pupils' and parents' involvement in current arrangements

- 3.1** All schools are required to make their child protection policy available to parents on request. Some schools post a copy of their child protection policy on the school website, but many do not. Regulations introduced in February 2009 will require independent schools henceforth to publish their child protection policy on their website, if they have one. Schools are also required to give parents access to a written description of a transparent complaints procedure. For independent schools this must now be done either by publication on the website or by making it available to inspect in school. Parents must be told where the information can be found.
- 3.2** Schools are expected to make pupils aware of behaviour towards them that is not acceptable and of how they can help keep themselves safe. Schools are also expected to teach them to recognise when pressure from others (including people they know) threatens their personal safety and well-being, and to develop effective ways of resisting pressure, including knowing when and where to get help.
- 3.3** The element of current safeguarding arrangements outlined above which consistently engages pupils and parents and seeks their perspectives is inspection. All the inspectorates use pupil and parent questionnaires as part of their pre-inspection evidence gathering, offer parents the opportunity to raise concerns direct with inspectors, and use discussions and interviews with pupils to inform inspection findings. Questionnaires are sent out by the school subject to inspection, and are either returned direct to the lead inspector, or sent in sealed envelopes to the school to be passed unopened to the lead inspector. Schools are able to adapt questionnaires to address, for example, the particular communication needs of their pupils, if appropriate.
- 3.4** Independent schools are required to send education inspection reports to parents, and reports of routine inspections are published on the relevant inspectorate's website. All schools inspected under s5 of the Education Act 2005 – including therefore Academies, CTCs/CCTAs, non-maintained special schools, maintained residential special schools and state boarding schools – are required to send a copy of the inspection report to every registered parent of pupils at the school.

For schools subject to welfare inspection by Ofsted, the report of an inspection of a school's compliance with the duty to safeguard and promote the welfare of children the school accommodates is published, sent to the school in question and made available for inspection at Ofsted's offices. A copy of the report must be provided to anyone requesting it, on payment of a reasonable fee. Welfare inspection reports of boarding schools and of residential special schools can be found on the Ofsted website, but schools are not required to send copies of their welfare inspection reports to parents.

How the current safeguarding arrangements work in practice, and scope for improvement

4.1 So much for the theory of current safeguarding arrangements. So do they work in practice? The benchmark against which I have measured the practice of current arrangements is that they should guarantee that all children enjoy equal protection, irrespective of the decisions that have been taken about where they are educated and cared for. To that end, parents and pupils should be able to expect that:

- **The standards of practice (regulatory frameworks and standards)** required of schools are coherent and consistent;
- **schools** have access to clear information, support, advice and guidance about requirements of them, and robust governance and lines of responsibility to ensure their practice meets required standards;
- **inspection arrangements** will identify where schools are failing to meet required standards;
- schools and their **registering authority** or maintaining LA will take prompt and effective action to ensure shortcomings are put right;
- **local authorities and Local Safeguarding Children Boards** will work with schools to build their safeguarding capacity as well as to take action where problems arise.

4.2 The findings of this review are that under current arrangements these expectations are not consistently met, and that there are a number of areas where requirements could be tightened, processes could be clarified and sharpened and good practice spread, which would have the effect of making current arrangements more robust. The comments and recommendations that follow refer to independent schools, non-maintained special schools and boarding schools as these are the categories of schools that have been the subject of my review. I hope however that DCSF will reflect on whether some of the changes to procedures I propose might equally benefit pupils in schools that are outside the scope of this review.

How the regulatory frameworks and standards measure up to expectations

- 4.3 Broadly speaking, the present approach provides for different sets of regulations and minimum standards for different categories of school. This is particularly complicated for schools which fall into more than one category. Governors, headteachers, proprietors and inspectors currently have to find their way through a thicket of statutory regulations and standards which carries with it the risk of confusion, mistake and non-compliance. In my view, a better approach would be to provide a core set of regulations and minimum standards which should apply to all schools in scope, supplemented by additional measures which must be adopted in schools with distinctive provisions eg boarding, year round residential care, special needs pupils, early years etc.
- 4.4 Whilst many of the regulations and standards contain provisions which are relevant and sensible there is a clear need to update the National Minimum Standards with the relevant regulations and ally them more closely together.
- 4.5 In the particular context of safeguarding there are a number of important inconsistencies and omissions. For example, in relation to independent schools key elements of good safeguarding practice include respect for personal privacy, effective complaints procedures, nominated people to whom concerns can be expressed, sensitive 'whistleblowing' policies for staff and appropriate responses to allegations that a child is being seriously harmed or at risk of harm. These apply to all schools – both day and boarding. It cannot be assumed that day pupils will readily express concerns to parents or guardians caring for them out of school time. Whilst these matters are addressed in standards applying to boarding schools there are some gaps in relation to day schools and day pupils in boarding schools e.g.:
- respect for personal privacy is only addressed in the minimum standards for boarding schools;
 - only parental complaints are included in the ISS, not those of day pupils and staff;
 - boarding schools identify a person other than a teacher or boarding staff member whom children may contact if they have concerns. Day schools do not have to provide an independent listener;
 - the minimum standards for boarding schools explicitly provide immunity from retribution or disciplinary action for staff who whistleblow in good faith. Comparable protection is available in day schools only to the extent that a school's policy must comply with 'Safeguarding Children and Safer Recruitment in Education';

- boarding schools are inspected for the appropriateness of their response to child protection issues and their co-operation with statutory enquiries. There is no comparable provision in the ISS Regulations for day schools;
- senior pupils in positions of responsibility are briefed on the action to be taken should they receive allegations of abuse. There is no comparable provision in the ISS Regulations for day schools.

4.6 The National Minimum Standards for boarding schools were issued in March 2002 and it is inevitable that they have become dated. Perhaps the most significant omissions which should be addressed relate to the use of the internet and mobile telephones. There is increasing evidence of the way children can be abused via the internet and schools have an important part to play in creating awareness of the dangers and ensuring that its own equipment is not misused. The evidence of investigating allegations of misconduct against children is that a growing number of cases involve inappropriate use of texting. This is sufficiently noticeable to justify introducing a requirement for every school to have a short protocol governing the use of communication by mobile phone between staff and pupils.

4.7 The circumstances of residential special schools and children's homes and the needs of children being cared for and educated in them are, of course, different to those in many independent schools. This is reflected in further regulatory provisions and more minimum standards applying to residential special schools and those schools which are also registered as children's homes. It is wholly appropriate that there should be a fuller range of regulatory measures in such schools and homes. But the principle that children should enjoy a basic level of protection is a fundamental entitlement which the regulatory framework should provide, and the type of comprehensive overhaul which I am recommending should ensure that.

Recommendation 1: revision of the regulatory framework

That DCSF undertakes a comprehensive re-appraisal of the entire regulatory framework as it applies to the categories of school within scope of this review, aimed at reducing overlap, eliminating inconsistency, updating requirements and filling gaps, to achieve the further benefits of reducing the regulatory burden and improving the quality of safeguarding within schools.

4.8 I believe that the relevance and quality of the revisions will be enhanced if associations, governors, headteachers and front-line staff as well as the inspectorates and child protection agencies are able to contribute throughout the revising process.

Selection and vetting of staff

4.9 I received a substantial body of evidence relating to the present provisions for the selection and vetting of staff and in particular the requirement for Criminal Records Bureau (CRB) checks. There were complaints about confusion over how the different requirements of the Independent School Standards Regulations and the National Minimum Standards applied to staff in day and boarding provision, and about the differing attitudes of inspectors. I found that many of these complaints were justified with particular regard to the rules concerning the commencement of work before a CRB disclosure had been received:

- The three sets of National Minimum Standards state:
“Exceptionally a member of staff may begin work if some references / checks are outstanding, but all Criminal Records Bureau checks must have been completed.”
- The Independent School Standards regulations state:
4(2)(b)“an enhanced criminal record check is made by the proprietor in respect of any such person and the enhanced criminal record certificate which is the subject of the application is obtained before or as soon as practicable after his appointment.”
- ‘Safeguarding Children and Safer Recruitment in Education’ provides advice to which local authorities, governing bodies and proprietors must have regard. Under a heading “Starting Work Pending a CRB Disclosure” it states:
“Ideally, where a CRB Disclosure is required, it should be obtained before an individual begins work... Head teachers, principals and local authorities have discretion to allow an individual to begin work within their schools and colleges pending receipt of the CRB Disclosure but should ensure that the individual is appropriately supervised and that all other checks, including List 99, have been completed.”

4.10 I received several complaints from headteachers that this apparent contradiction had led to inspectors judging them non-compliant when they had believed they were following departmental advice. There is evidence of confusion on both schools’ and inspectors’ part. The point of the following recommendation is that the requirements that apply should be clearly articulated and understood by schools and inspectors, including any difference between the arrangements for day and boarding schools.

Recommendation 2: CRB Disclosure requirements

That DCSF urgently clarifies the different requirements that apply to staff in boarding and day provision, in relation to staff commencing work prior to receipt of CRB Disclosures, and that the inspectorates ensure inspectors are briefed accordingly.

- 4.11** A related matter that was frequently raised with me is the additional difficulty schools have with CRB checks when staff come from overseas. If they have just arrived in the UK the CRB check is unlikely to reveal details of any overseas convictions or concerns, and although within the EU there are some parallel schemes, they do not align with the CRB scrutiny because of different legislative emphases in other countries' schemes. This situation reinforces the importance of constant vigilance and of taking up robust references. There is no quick solution to this issue. The Home Office reports that work is ongoing to improve the sharing of criminal records information with other countries for employment vetting purposes.
- 4.12** A further point was the scope to improve guidance to schools on the content of the central record of recruitment and vetting checks required in 'Safeguarding Children and Safer Recruitment in Education'.

Recommendation 3: central record of recruitment and vetting checks

That DCSF modifies the model central record in 'Safeguarding Children and Safer Recruitment in Education' to include columns that record the start date, job role and CRB unique reference number for each member of staff.

Safeguarding Vulnerable Groups Act 2006

- 4.13** Further changes will be required when the new vetting and barring scheme is introduced under the Safeguarding Vulnerable Groups Act 2006. This will require prospective employees and volunteers who are to be engaged in the schools within scope, and school governors and trustees, to register with the Independent Safeguarding Authority prior to commencing work. Similar registration requirements will apply to inspectors. These new requirements will extend the protection available to children but their implementation will take place over 5 years and so further complicate the regulatory position unless the type of modernising and streamlining initiative I propose in Recommendation 1 is undertaken.

Children who go missing

- 4.14** Identifying children not receiving education is a key part of discharging the responsibility to safeguard and promote the welfare of children.

4.15 In the course of the review my attention was drawn to a lack of clarity in the Education (Pupil Registration) (England) Regulations 2006 which address the circumstances in which a school's proprietor should notify the LA when pupils are absent from school. An Ofsted survey had found that there was a failure of some independent schools to share information about children on their rolls and their attendance; in particular, they did not always notify the local authority when a child had been removed from roll.

Recommendation 4: children missing education

That DCSF, as part of the overhaul of the regulatory framework, should ensure that all independent and non-maintained schools are required to notify the LA when children of compulsory school age leave the roll, and to inform them of the destination where this is known to them.

How schools are measuring up to expectations

4.16 A simple measure of schools' success in meeting safeguarding standards is their performance in inspection. Thus the fact that in 2007/08 some 30% of non-association independent schools inspected by Ofsted under s.162A of the Education Act 2002 failed to meet all safeguarding standards provides clear-cut evidence that practice in a significant number of schools is falling short of acceptable.

4.17 However, the data underlying these headline figures provide useful information for diagnosing the causes of, and possible remedies for, these shortcomings. In a clear majority of cases, schools' failure to meet safeguarding requirements was because they had not complied with new standards for training introduced in 2007. Either the training had not been undertaken, or what had been provided was out of date. Furthermore, the picture emerging from inspection in the first quarter of 08/09 is that non compliance is reducing, with the percentage of schools failing inspection in this area falling to around 16%. The comparable figure for schools inspected by the ISI in the 2008 Autumn term is that 8% failed to meet required standards in this area (and 12% failed to comply fully with employment checks).

Schools' access to clear information, support, advice and guidance

4.18 Schools' access to safeguarding information and their ability to keep up to date with changes and respond to them vary greatly. When statutory requirements change as a result of amendments to, for example, the Education (Independent School Standards) Regulations, the changes are explained to schools by DCSF through an email (or letter to schools without an email address) and posted on the DCSF

website, and it is schools' responsibility to take account of the changes and decide how their practices need to be adjusted.

- 4.19** Associations are a prime source of information and advice for their member schools, and they are able to interpret changes and tailor information for the specific needs of their members – for example boarding schools. Added to this, the sectoral inspectorates all engage in explicit developmental activity with the association schools they inspect, to improve their capacity to perform. By training serving teachers and school leaders to act as peer inspectors, the sectoral inspectorates also increase the level of learning and good practice in schools. Other sources of advice, guidance and training are provided by commercial suppliers, such as firms of solicitors and consultants, and by charities such as NSPCC and the Churches' Child Protection Advisory Service. Schools that are owned by, or managed in partnership with, companies that specialise in the provision of independent education may also provide model safeguarding policies, training, guidance and central services such as CRB checking to the schools they run, either as proprietors or as operating partners.
- 4.20** But the some 1,150 independent schools in England that are not affiliated to any of the formal associations (and that make up almost 50% of independent schools in England) do not have automatic access to the same body of information, advice and guidance that their association peers do, and are therefore reliant on their own resources and networks to keep themselves up to date and compliant with safeguarding requirements. This can be particularly challenging for, for example, the very small schools that operate on tight budgets, or for schools which, because of their ethos, do not use the internet. And although Ofsted is now organising annual seminars to highlight the areas for improvement emerging from the previous year's inspection of the non-association independent schools, the inspectorate does not, as a matter of policy, provide schools with the same advice, guidance and developmental support service that the sectoral inspectorates provide.
- 4.21** This is also an issue of particular concern to boarding schools, who report that when inspection of the welfare responsibilities of boarding schools was moved from the Commission for Social Care Inspection (CSCI) to Ofsted in April 2007, the advice guidance and development activity provided by CSCI was not carried forward by Ofsted. This is explored in more detail in the section on inspection below.
- 4.22** It is outside my terms of reference to enter the debate about the nature of inspection. It is a moot point whether or not improvement support should be an

integral part of inspection activity. Where it is provided, it is important that it does not compromise objective inspection, and that the inspectorates remain vigilant that they do not blur the boundaries between their support and inspection functions. The section of this report on how inspection arrangements are measuring up to expectations discusses this in more detail. The key issue for me here is that schools need to have ready access to authoritative improvement support, and that non-association schools do not have access to that support either from an association or from their inspectorate in the way that their association peers do.

- 4.23** Where training, support and advice is available to schools from local statutory safeguarding partners, and schools take advantage of the services on offer, their capacity to operate robust safeguarding practices is strengthened. The section of this report on local safeguarding authorities below, sets out in more detail the different approaches that Local Safeguarding Children Boards and local authorities currently take to engaging and supporting the types of school within scope of this review. But schools' responses to our questionnaire reflect a range of circumstances, from being able to access a full range of tailored information and support services offered to them on the same basis as they are offered to maintained schools, to having access to no local support services, or only to services that are inflexible, prohibitively priced, or underinformed, for example, about the nature of boarding.
- 4.24** Maintained residential special schools and state boarding schools are in theory plugged in to the information and support services of the local authorities that maintain them, but in practice they may find themselves equally isolated within the community of local maintained schools, as their specific circumstances and therefore particular safeguarding training and information needs are not routinely understood and catered for by their local authority services. Hence organisations such as the State Boarding Schools Association are important sources of information and guidance that is relevant to these schools' real needs.
- 4.25** The National Association of Independent Schools and Non-Maintained Special Schools (NASS) is also a source of support for independent and non-maintained special schools. Although some have the advice and support of a sponsoring organisation, those that do not may be doubly disadvantaged in accessing relevant safeguarding advice by catering for pupils whose needs lie outside the mainstream, and by not having a direct link to a maintaining local authority.

4.26 The importance of schools having a clear and up-to-date understanding of the safeguarding requirements of them, built up and bolstered by contact with and support from organisations working in partnership with them, is twofold:

- it has a preventative function in ensuring that schools are adopting and implementing robust practices that will minimise the risk of pupils being at risk of abuse; and
- it means that when problems do arise, the schools can act with confidence to put the problem right, as they know what to do, and they can engage with local statutory agencies with whom they already have a professional relationship, built on a shared understanding of respective roles.

4.27 It is only if these two elements are in place and working smoothly that pupils in independent, non-maintained special schools and boarding schools can be said to enjoy the same level of safeguarding protection that pupils enjoy in the best maintained mainstream schools. Thus it is a cause for concern that not all independent, non-maintained special schools and boarding schools currently have easy and affordable access to relevant and up-to-date information, training, advice and guidance. It is equally cause for concern that not all independent, non-maintained special schools and boarding schools currently enjoy active, collaborative relationships with local statutory safeguarding partners, with the result that they risk operating in isolation. It is in this context that I would also stress the importance of all schools cooperating fully with relevant local authorities in the construction and maintenance of the ContactPoint database. This important tool has been developed to help services work together more effectively on the front line to meet the needs of children, young people and their families, and later in this report (Recommendation 29) I propose a measure to ensure that all children who receive education services in England, including overseas pupils, are brought within its scope, to benefit from the access to more coordinated services it delivers.

4.28 The responsibility for ensuring that a school has a child protection policy and procedures in place that are in accordance with locally agreed inter-agency procedures – which include safe recruitment procedures and procedures for dealing with allegations of abuse – lies squarely, and properly, with the proprietor of independent schools, and with the governing body of maintained boarding schools,

maintained residential special schools and non-maintained special schools. Thus the scope for improvement in schools' safeguarding performance falls into two areas:

- making it easier for schools to access authoritative and up-to-date information, training, support and guidance, and to work collaboratively with local statutory safeguarding partners; and
- strengthening the governance arrangements that ensure schools seek out and exploit the opportunities available to them.

4.29 The recommendations of this review to address the first area – access to information and support, and collaborative local working – lie principally in the field of how schools are engaged in the activities of local statutory safeguarding authorities, in particular Local Safeguarding Children Boards, and are discussed in detail below.

4.30 There are, however, some areas of central activity where small adjustments would offer significant improvements in schools' performance; for example in the provision of safer recruitment training. Schools report that the offer of accredited on-line training to two people per school falls far short of the needs of larger schools, where it is impractical to expect the same two people to cover every recruitment panel, as it would typically involve the headteacher in the recruitment of ancillary staff.

Recommendation 5: safer recruitment training

That DCSF considers extending the availability of the National College of School Leadership package of accredited safer recruitment training to more people in schools.

4.31 Another area of central activity that could usefully be provided to all the schools in scope of this review is a 'helpline' type source of guidance on interpreting the various sets of regulations which schools are required to meet and against which they are judged in inspection, as set out in detail in 'Safeguarding Children and Safer Recruitment in Education'⁴. I have noted that such a service is to be provided for charitable and voluntary organisations by the new Safeguarding Unit for the Third Sector.

Recommendation 6: guidance to schools

That DCSF considers the provision of a 'helpline' for schools, to offer practical, situational advice on implementing the practices described in 'Safeguarding Children and Safer Recruitment in Education'.

4 <http://publications.teachernet.gov.uk/eOrderingDownload/Final%206836-SafeGuard.Chd%20bkmk.pdf>

4.32 In this context, I understand DCSF has action in hand to provide more information in the Academies Principals' Handbook about safeguarding requirements and good practice. I welcome this initiative, recognising the range of issues that Principals have to focus on when setting up new Academies, and given the importance of them establishing robust safeguarding practice from the outset of their operation.

School governance

4.33 The evidence gathered in this review points to the need for more fundamental change in the standards that apply to the oversight within school governance of safeguarding arrangements in independent schools, in order to be *assured* of robust approaches to safeguarding. Key differences between the oversight arrangements that apply in maintained schools and non-maintained special schools and those that apply in independent schools are:

- the requirement to have a governing body, and therefore a level of scrutiny above the headteacher, and
- the requirement on that governing body to review their policies and procedures annually, and to provide an account to the local authority of how their safeguarding duties have been discharged.

4.34 There are two issues here: the contribution that a governing body may make to the safeguarding arrangements in a school, and the sharper focus that accountability to an outside authority may bring to the governing body's safeguarding responsibilities.

4.35 Turning first to the contribution that a governing body may make to safeguarding arrangements in a school, the following points should be noted:

- many independent schools have chosen to have a governing body;
- those that are registered charities are required to have a board of trustees;
- standards of good governance are actively promoted by the independent school associations and included as requirements of membership, and governance practice is inspected by the Independent Schools Inspectorate and the School Inspection Service;
- during the review I have seen evidence of extremely good safeguarding practice in independent schools; and not least
- the fact of having a governing body does not of itself mean that the governing body is operating effective scrutiny.

4.36 But independent schools are required only to have a proprietor; hence it is possible, and not uncommon practice, for the proprietor of an independent school also to be its headteacher and sole designated child protection officer, and therefore for responsibility for ensuring that correct safeguarding arrangements are in place, and for implementing them, to rest with the same person. Moreover, when staff are from the same family poor practice is less likely to be challenged or questioned. Whilst these arrangements do not mean necessarily that safeguarding practice must be of a lesser standard, or that the safeguarding outcomes for pupils in those schools are not assured; the lack of separate scrutiny and responsibility may undermine confidence in the safeguarding arrangements, unless steps are taken to demonstrate effective independent challenge. It may equally make it difficult for pupils, parents and staff who have concerns to speak up with confidence, where all safeguarding responsibilities rest with the same person, and that person already exercises significant influence over pupils' life at school and their educational prospects.

4.37 Diversity and flexibility are inherent characteristics, and strengths, of the independent school system. It is therefore not my recommendation that all independent schools should be required to have a governing body. My recommendations 7 and 8 below focus instead on:

- the standards that independent school governance, whatever its precise form, should be required to meet; and
- the sharper focus that accountability to an outside authority may bring to the proprietor's exercise of safeguarding responsibilities.

4.38 These measures are designed to ensure a proper separation of the duty to implement safeguarding arrangements from that of monitoring them; and to answer any concern that in the current arrangements governing child protection in independent schools, there is the potential for lack of rigour. In order to make certain that their effect is as I intend, I would suggest that they be reviewed after three years of operation.

4.39 The Schools Minister announced to Parliament last year, during consideration of what is now the Education and Skills Act 2008, the government's intention to introduce leadership and management standards for independent schools, and that these should include standards that address the effective discharge of responsibilities for the welfare, health and safety of pupils.

Recommendation 7: standards of independent school governance

That DCSF should include the following measures in the proposed leadership and management standards for independent schools, and review their impact after three years of operation:

- a requirement that the proprietor make arrangements for independent scrutiny and challenge of the school's safeguarding policies and practices. That role might be carried out by a nominated governor or trustee on behalf of the governing body/board where they exist in the school. Where there is no governing body, the role may, for example, be delivered by an independent safeguarding 'visitor' approved by the Local Safeguarding Children Board. Whatever arrangement the proprietor chooses to put in place, it should be his responsibility to demonstrate its effectiveness and independence.
- an expectation that independent schools should participate in local safeguarding arrangements overseen by the Local Safeguarding Children Board.

4.40 The expectation that independent schools should participate in local safeguarding arrangements overseen by the LSCB may require some LSCBs to take initiatives to understand the distinctive needs of independent, non-maintained special schools and boarding schools, recognising their particular circumstances and respecting their unique contribution whilst being willing to share safeguarding knowledge and experience. This is explored in more detail in the section of this report on LSCB and LA outreach to schools below.

4.41 On the issue of external accountability for a school's safeguarding arrangements, in an arrangement similar to that required of the governing bodies of maintained schools and non-maintained special schools, proprietors of independent schools are currently required to undertake an annual review of the school's policies and procedures relating to safeguarding, and how their duties have been discharged. However, unlike maintained schools and non-maintained special schools who must report annually to the LA, there is no requirement on the proprietors of independent schools to do anything with their review. The following recommendations aim to mirror for independent schools the requirement that is on maintained schools to give their regulatory body an annual account of how they have discharged their safeguarding duties, and to extend the reporting requirement on non-maintained special schools to ensure that the information is also shared with DCSF as their registering authority.

Recommendations 8 and 9: accountability to the registering authority

That DCSF should:

- require independent schools to include a report of the proprietor's annual review of the school's safeguarding policies and procedures and the discharge of the proprietor's safeguarding duties, as part of their annual return to the DCSF as registering authority under Part 4 of the Schedule to the Education (Provision of Information by Independent Schools)(England) Regulations 2003 as amended. This report should be signed off by the person exercising independent scrutiny and challenge of the school's safeguarding policies and practices (see Recommendation 7 above), and should cover recruitment and training activity, confirm the review of policies and practices and the maintenance of a central log of all actions taken in pursuit of individual safeguarding concerns raised, and outline the action the school has taken to participate in local safeguarding arrangements overseen by the LSCB. The DCSF should make the report available to the relevant inspectorate, alongside other information collected as part of the annual return. There would also be value in the school sharing it with the relevant LSCB and where applicable with placing LAs. This would provide the LSCB with useful data on which to develop its forthcoming advisory and training plans and it would give a placing LA confidence that safeguarding issues were being appropriately addressed. DCSF should review the impact of these measures after three years of operation.
- extend the requirement on non-maintained special schools so that when they have completed their annual review of their safeguarding policies and procedures, they send also to DCSF the information they provide to the local authority about those policies and procedures and about how their safeguarding duties have been discharged.

How inspection arrangements are measuring up to expectations

4.42 Inspection is a vitally important element of the current safeguarding arrangements, in that it should provide a systematic, consistent judgment applied to schools' policies and practices, and the most authoritative source of information for parents and carers on schools' safeguarding performance.

4.43 I want to highlight four areas of current inspection arrangements for comment:

- who carries out the inspections;
- the timing and frequency of inspections;

- the conduct of inspections;
- how inspections are reported.

Who carries out inspections

- 4.44** Ofsted currently conducts all inspections of Academies and CTCs/CCTAs, non-maintained special schools, maintained residential special schools and state boarding schools under s.5 of the Education Act 2005. Ofsted also conducts inspections under s.162A of the Education Act 2002 of all ‘non-association’ independent schools, and is responsible for monitoring the quality and consistency of s.162A inspections of ‘association’ schools conducted by the sectoral inspectorates – Independent Schools Inspectorate (ISI), School Inspection Service (SIS) and the Bridge Schools Inspectorate (BSI). In addition, Ofsted conducts all inspections of the duty to safeguard and promote the welfare of children who are boarding, and the requirements in relation to residential special schools and children’s homes.
- 4.45** In the course of this review, I have not looked explicitly at the criteria against which the Secretary of State approves inspectorates other than Ofsted to operate, nor have I collected evidence that would enable me to assess in any systematic way their performance against these criteria. The criteria themselves were the subject of a public consultation in 2008, and the sectoral inspectorates’ performance is the subject of Ofsted’s monitoring.
- 4.46** Ofsted’s monitoring of the sectoral inspectorates is applied proportionately: for example, in 08/09, the first year of the BSI’s operation, Ofsted is attending a high proportion of inspections, ensuring every inspector is accompanied. It covered every SIS inspection in the first year of its operation; in the second year Ofsted covered 5 of the SIS’s 10 inspections, and in the current – third – year of operation plans to cover 3 of the 7 scheduled inspections. For the ISI, which has been operating under statutory powers since 2003, Ofsted routinely attends 10% of inspections, receives all their inspection reports and scrutinises 15% of them. The level of monitoring presumably reflects Ofsted’s confidence in the sectoral inspectorates’ procedures and competence, based on their operating record. As ISI has only recently taken on responsibility for early years inspection in the schools it inspects, Ofsted’s monitoring of ISI is focussing on that area.
- 4.47** The purpose of Ofsted’s monitoring is to ensure that in every inspection of independent schools under s.162A of the Education Act 2002, judgments of compliance with the statutory requirements set out in the Education (Independent

School Standards) (England) Regulations 2003 as amended are of a consistently high quality. This is important to give the DCSF as registering authority, and parents, carers and other stakeholders, assurance that the sectoral inspectorates' judgments are of the same standard as those that Ofsted's own inspectors would make, and therefore give them confidence in the independence and authority of those inspectorates. In Ofsted's most recent annual reports of their monitoring of ISI and SIS inspections during 2007/08, all of SIS inspections and most of ISI inspections monitored were judged to be of good quality (with 2 ISI inspections out of 18 monitored judged satisfactory, and one with some shortcomings). As BSI only started to operate in September 2008, Ofsted has yet to make its first annual monitoring report.

4.48 The sectoral inspectorates are all very focused on maintaining the highest standards of inspection, not least because it is on the back of their continuing approval to conduct statutory inspection that they are able to offer the additional elements of inspection and improvement that are so valued by the associations whose schools the sectoral inspectorates inspect, and by the schools themselves.

4.49 The sectoral inspectorates include a number of additional elements in their inspection:

- they inspect additional areas of the schools' performance, for example the management of the school, continuing adherence to the criteria for membership of the relevant association, and in the case of BSI schools, the faith element of the school's ethos;
- ISI and BSI include peer review inspectors in inspection teams – typically experienced and serving teachers and managers from schools within the relevant association, who are trained by the inspectorates and bring additional insights to the inspection;
- they engage in direct discussion with the schools on how to improve and develop their performance, act as an ongoing point of reference and source of information and advice for schools, and advise the associations on for example specific training needs that might emerge from trends and themes identified in inspection.

4.50 While these additional areas of activity are not restricted in their focus to safeguarding issues, in my judgment they do add safeguarding value. For example, the scrutiny of school management is a valuable forum for discussing how responsibility for the oversight and implementation of good safeguarding practice is discharged; the involvement of peer review inspectors can provide a practical perspective on the handling of difficult issues, and spread learning within both the

schools being inspected and the peer inspectors' own schools; and the ongoing engagement of the inspectorates with schools means that schools are not left on their own to put right any safeguarding shortcomings, but are supported in the improvement process.

- 4.51** A concern about the use of peer inspectors expressed to me during the review is that their relative lack of experience outside their own sector of schools and their possible knowledge of the school under inspection may affect their objectivity and therefore their judgment. I think the key issue here is how peer inspectors are supervised and guided. Ofsted's most recent monitoring report of ISI notes that ISI inspection teams were led by experienced Reporting Inspectors (RIs), and describes the importance of the training session offered by the RIs to the peer reviewing Team Inspectors on the first day of the inspection visit. The report further confirms that RIs provided good direction for the team, took their role in quality assurance seriously and that their scrutiny of the team's evidence often secured improvements in clarity and consistency of judgments.
- 4.52** Another issue that has been raised with me repeatedly during the review is the matter of who conducts inspections of the welfare duty for boarding schools, residential special schools and, where appropriate, children's homes. Individual schools and their associations have reported their experience that when inspection of the welfare duty for boarding schools etc was moved from the Commission for Social Care Inspection to Ofsted in April 2007, several elements of the way those inspections were organised and conducted changed.
- 4.53** A particular concern is that the advice, guidance and development activity provided by CSCI in addition to its inspection function, and which has been likened to 'School Improvement Partner' role, was not carried forward by Ofsted. They add that, as CSCI had been regionally organised, schools had had direct access to known inspectors, who (although they may have originally come from a social care background) had gained experience of, for example, the differences in ethos between boarding schools and children's homes, were familiar with schools' particular circumstances, and available to act as a sounding board. Whereas, with Ofsted's centralised administration and approach to inspection, although most of the former CSCI inspectors are now acting for Ofsted, schools report that the ongoing professional relationship between inspectors and schools through regional offices has been lost, and the advice, training and development element of inspectors' brief has been discontinued.

4.54 A further concern expressed to me is that Ofsted is using the services of peer review inspectors (known as Boarding School Professional Inspectors under CSCI and called Boarding School Additional Inspectors by Ofsted) in fewer inspections of boarding schools than was CSCI's practice, having raised the threshold for their use from 20 or more boarders to 50 or more boarders. The associations place particular value on the contribution of well trained peer review inspectors for boarding schools, given the specific aspects of boarding education that set these schools apart from both day schools and children's homes, and what they report as a lack of specific boarding experience and expertise amongst some Ofsted inspectors that did not transfer across from CSCI. They argue that inspection is likely to be more effective if inspection teams include a member of the team who is familiar with boarding schools. They are therefore concerned at the impact of this change on the safeguarding development of those schools that now fall below the threshold, and at the risk that the pool of peer review inspectors for boarding will dwindle. For its part, Ofsted reports that it is developing its own team of experienced boarding inspectors, who should build up a national perspective through experience of a wide range of boarding settings.

4.55 Although previous arrangements under CSCI will not have been universally perfect – there is always a danger that recollections of previous regimes become bathed in an ever rosier glow as the memory of the reality fades; and I recognise that any period of change is uncomfortable and throws up problems that have to be worked through, I do give weight to the schools' concerns. I repeat that it is a moot point whether improvement support should be an integral part of inspection activity and it is not part of my remit to engage in that debate; but the key issue for the purposes of this review is that schools should have ready access to authoritative improvement support. I would report therefore that some schools are feeling the loss of a valuable source of authoritative advice, guidance and improvement support previously available to them from CSCI; and I am informed that this loss is more keenly felt because the level of inspection fees has not dropped to reflect a pared down service, and to free up funds to purchase that advice and guidance from another source.

Recommendations 10 and 11: inspection of the welfare duty for boarding and residential special schools

- That the DCSF considers with Ofsted and the relevant associations the impact on boarding and residential special schools' safeguarding improvement activity of the decision that Ofsted should not carry forward the advice, guidance and development role previously provided by CSCI in addition to its inspection function, with a view to agreeing what compensatory support to schools might be provided.
- That Ofsted reconsiders the threshold number of boarders in a school to trigger inclusion of a Boarding School Additional Inspector in an inspection team.

The timing and frequency of inspections

4.56 There are three issues here:

- the alignment of inspections under s.5 of the Education Act 2005/s.162A of the Education Act 2002 with inspections of the welfare duty for boarding schools, residential special schools and children's home, where they apply to schools;
- the frequency of inspections;
- the duration of inspections.

4.57 **Alignment of inspections:** Ofsted recognises the value in scheduling together where possible the different sets of inspections to which a school may be subject, and the confusion and inconvenience caused to schools when that does not occur.

4.58 All inspections in scope are on different cycles, as set out below. The aim therefore is to achieve pragmatic alignment, so that, for example, in a year where a maintained residential special school is due to be inspected under s.5 of the Education Act 2005, its annual inspection of the welfare duty for residential special schools and, where relevant, its next 6 monthly inspection of the welfare duty for children's homes should be scheduled to occur at the same time. Ofsted has informed me it has now achieved synchronicity for all those schools for which it is the sole inspectorate – ie state boarding schools, non-maintained special schools, maintained residential special schools and non-association independent schools – and that it is working actively with the sectoral inspectorates to align inspection events in their schools which are also inspected by Ofsted.

4.59 From the perspective of this review, I do not think there is any additional safeguarding risk that flows from schools being subject to different inspections at

different times. Any confusion – as distinct from inconvenience – that schools report from them occurring at different times will stem from the areas of mismatch between the different sets of regulatory requirements explained above. But although it is strictly out of scope of this review, I would flag the capacity for greater organisational efficiency for both inspectorates and schools of aligning the timing of inspections where possible.

4.60 Frequency of inspections – As noted above, all inspections in scope are on different cycles – inspections under s.5 of the Education Act 2005 are currently on a 3yr cycle; inspections under s.162A of the Education Act 2002 are on or moving towards a 3yr cycle; inspections of the welfare duty for boarding schools are also on a 3yr cycle; those for residential special schools are on an annual cycle; and for children's homes on a 6 month cycle. Academies are subject to regular inspection in the first three years of their operation, with a pre-registration inspection that checks that they meet the terms of the Independent School Standards; a monitoring inspection under s.8 of the Education Act 2005 within two years of opening, and a first full s.5 inspection within three years of opening.

4.61 Although I am satisfied that the annual and 6 monthly cycle for welfare inspection in residential special schools and children's homes respectively is right, I would question whether the cycle for welfare inspection in boarding schools is sufficient. I would also flag my concerns about the frequency of inspection of safeguarding arrangements in day schools, where none of the sets of NMS applies. From September 2009, the cycle of inspection for all schools inspected under s.5 of the Education Act 2005 will change; schools that are satisfactory or poorer will still be inspected once every three years, but schools judged good or better will have longer intervals, of up to 5-6 years. I have some reservations about the move to a 5-6 year inspection cycle for Academies, CTCs/CCTAs and non-maintained special schools catering only for day pupils. However I recognise that this is in line with the inspection pattern for similar schools in the maintained sector. I recommend that DCSF monitors the adequacy of a 5-6 year cycle of inspection of safeguarding for these schools and I emphasise the need for Ofsted to retain the capacity to inspect any such schools where there are grounds for concern about the welfare of pupils.

4.62 I have been impressed by the argument reported to me by the Children's Rights Director, Dr Roger Morgan, on the basis of his extensive work in this area, that it is very important for pupils to see and participate in an inspection while they are at the school, which may not happen if they are only at the school for 3 years. This is particularly relevant for pupils in boarding schools, where their experiences at the school represent the biggest part of their life at the time, but is important for day

pupils too. Dr Morgan's evidence is that children know that regular inspection keeps a school on its toes – that if a school knows it is going to be inspected frequently, and at short or no notice, this influences the conduct of the school. Thus they are happy to see additional inspections to follow up on problems, but do not support the 'proportionality' argument that the frequency of inspections can be reduced when a school's practice is judged to be satisfactory. They are concerned that the previous inspection might not have got its judgment quite right; and know that the atmosphere can change very quickly in a boarding house with changes in staff and pupils.

4.63 The frequency of inspection is also a crucial issue linked to the governance of the school, and in particular the extent to which the school's governance includes robust independent scrutiny and challenge of its safeguarding policies and practices (see section and recommendations on school governance above).

Recommendations 12, 13 and 14: frequency of inspection

- That the frequency of welfare inspections should not be reduced from current levels in residential special schools and schools also registered as children's homes, and that the three year interval between welfare inspections in boarding schools should be considered an absolute maximum, with a presumption of more frequent and short notice/unannounced inspection.
- That following the introduction in September 2009 of new arrangements for inspection under s.5 of the Education Act 2005, DCSF should monitor the adequacy of a 5-6 year cycle of inspection of safeguarding for Academies, CTCs/CCTAs and non-maintained special schools who receive only day pupils.
- That re: the frequency of inspection of safeguarding of independent schools under s.162A of the Education Act 2002, the presumption should continue to be for inspection at least once every three years for day schools that are therefore not also subject to welfare inspection, while these schools adjust to the new leadership and management standard when it is introduced.

4.64 Duration of inspections – A key difference between inspections under s.162A of the Education Act 2002 conducted by Ofsted and those conducted by the sectoral inspectorates can be the length of time spent in school by the inspection team. At present, ISI, SIS and BSI inspection teams spend 3-4 days in the school, whereas Ofsted inspection typically lasts 2-3 days. The sectoral inspectorates also tend to use larger teams.

4.65 The difference in inspector-days spent in school can be explained in part by the wider scope of the sectoral inspectorates' inspection visits – the additional areas their inspections cover, and their engagement in best practice and improvement discussion. Ofsted also point to the facts that the schools they inspect are in general much smaller than association schools; that Ofsted inspection teams are staffed according to risk; and that inspection teams now have access to more information before the inspection starts, including the school's Self Evaluation Form, and in Ofsted's case where several cycles have now happened, a history of the school's inspection record. However, schools have also reported a big difference in the number of inspector-days dedicated to inspection of the welfare duty under CSCI and under Ofsted. An example cited was of a boarding school whose last inspection by CSCI involved 7 inspectors over 5 days, and first inspection by Ofsted involved 2 inspectors over 1 day. While accepting that there are arguments and justifications on both sides, I believe that when inspectors are conducting any inspection that includes scrutiny of safeguarding arrangements – be it inspection under s.5 of the Education Act 2005, s.162A of the Education Act 2002, or against any of the relevant National Minimum Standards – for them to be able to check out the *real* safeguarding practice of the school, in addition to its paper policies, they need to have sufficient time to engage in discussion with pupils, staff and school leadership. I am concerned that the trend towards increasingly short inspection threatens their ability to do this.

4.66 The amount of inspector time available for the purpose should be sufficient to enable them to assess compliance with both the statutory regulations and, where appropriate, the NMS, and this should include checking that:

- written safeguarding policies are consistent with DCSF guidance; that these are reviewed by the governors or proprietors annually; that governors or proprietors are proactive in their monitoring of the school's safeguarding arrangements, and that there are suitable arrangements in place for the independent scrutiny and challenge of the school's safeguarding policies and practices;
- staff training has been undertaken that is both up-to-date and relevant to the type of school;
- prefects and students undertaking responsibilities in relation to other pupils should be clear about what to do if they receive allegations of bullying or abuse;
- recruitment procedures for staff, including necessary CRB checks, have been undertaken in accordance with statutory requirements and DCSF guidelines;
- complaints procedures and whistleblowing policies have real effect in practice;

- the school participates in local safeguarding arrangements overseen by the LSCB, and engages in its advisory, development and training opportunities, and/or uses alternative sources of guidance and support;
- the school has handled appropriately any statutory enquiries which have been conducted because a child is believed to have suffered or is likely to suffer significant harm (s.47 of the Children Act 1989) including any which have resulted in a notification or referral to DCSF or the Independent Safeguarding Authority on the grounds that a person is unsuitable to work with children.

4.67 I consider it essential that sufficient inspection time is available for inspectors to observe boarding practice in every boarding house, and for children to have an opportunity to meet face to face with inspectors to discuss their sense of safety within the school. Inspectors need to be satisfied that children know to whom they would turn if they were concerned about their wellbeing or that of other pupils.

Recommendation 15: duration of inspection

That the DCSF discusses with Ofsted, and the sectoral inspectorates as appropriate, the duration of inspection visits under s.5 of the Education Act 2005, s.162A of the Education Act 2002, and against the relevant National Minimum Standards, with a view to ensuring that sufficient time is available for effective inspection of safeguarding policies and practices, including, in the case of boarding schools and residential special schools, in every boarding house or residential unit.

Conduct of inspections

4.68 There are two key issues here:

- the pre-inspection information that inspectors draw on to inform their inspection
- the conduct of the inspection visit itself.

4.69 Pre-inspection information – Every inspection team has access to a core body of information on schools compiled by the DCSF as part of the relevant school census. For independent schools, this includes the numbers and timing of staff leaving and joining the school, which is key information for the safeguarding element of the inspection visit. DCSF is currently piloting a new school workforce census that would also collect this information for Academies and CTCs/CCTAs, state boarding schools and maintained residential special schools but not non-maintained special schools.

Recommendation 16: collection of workforce data

That DCSF extend the scope of the new school workforce census to include non-maintained special schools.

4.70 The DCSF has also since April 2005 automatically made available to inspectorates anonymised information about any referrals made by independent schools and non-maintained special schools (but thus far not Academies and CTCs/CCTAs) to List 99/PoCA (Protection of Children Act List)⁵. When inspecting schools whose previous inspection predated April 2005, the inspectorate should ask DCSF to provide similar details about any referrals made between the date of the last inspection and April 2005. Ofsted is able to ask local authorities to provide them with similar information on referrals made by maintained schools. These details, together with information on the school's own Self Evaluation Form, enable inspectors to identify before the inspection visit begins any specific areas they wish to probe when in the school. Information relating to List 99/PoCA referrals indicates to inspectors that particularly close scrutiny of the school's recruitment and allegations management practices may be required. However, whilst respecting the need for confidentiality, boarding schools are inspected for the appropriateness of their response to recent child protection issues and their cooperation with any statutory child protection enquiry. I do not see how inspectors can carry out this duty if they are not given the names of the parties involved.

Recommendation 17: information from DCSF and the Independent Safeguarding Authority on referrals made by schools to List 99/PoCA

That DCSF:

- ensures that the information provided by them and the ISA to inspectors in respect of referrals to List 99/PoCA made by independent schools and non-maintained special schools gives sufficient detail to allow the inspection team to review the conduct of the investigation in accordance with the school's own and locally agreed inter-agency procedures;
- puts arrangements in place to ensure similar information is provided to Ofsted in respect of referrals to List 99/PoCA made by Academies and CTCs/CCTAs.

4.71 When the school learns of the inspection, they are asked to send out questionnaires to parents and pupils on the inspectorate's behalf, and to pass returns un-opened to the inspection team. Inspection teams also seek information from LAs who have placed a pupil with a statement of SEN or a looked after child at the school.

⁵ This responsibility passed to the Independent Safeguarding Authority from 20 January 2009.

Although there are obvious practical difficulties over the turn-around time for these questionnaires in relation to short notice/unannounced inspections, they are a very important source of pre-inspection intelligence.

- 4.72** Local Safeguarding Children Boards and Local Authority Designated Officers (LADOs) for the areas in which schools are located are a currently untapped source of potentially very useful pre-inspection intelligence. In line with my recommendations elsewhere in this report that aim to strengthen the flow of information and cooperation between LSCBs and schools, I believe there is scope here to improve practice.

Recommendation 18: inspection evidence from LSCBs and LADOs

That inspectorates should be required to seek information from LSCBs and LADOs in advance of inspections under s.5 of the Education Act 2005, s.162A of the Education Act 2002 and inspections of the welfare duty for boarding, for residential special schools and for children's homes. That information should include the action the school has taken to participate in local safeguarding arrangements overseen by the LSCB; whether the school has sought the advice of the LADO on specific safeguarding concerns; and in the case of state boarding schools and maintained residential special schools, information about any referrals made to List 99/PoCA, with sufficient detail to allow the inspection team to review the conduct of the investigation in accordance with the school's own and locally agreed inter-agency procedures.

- 4.73 Conduct of the inspection visit** – This is another area where the shift of responsibility from CSCI to Ofsted for inspection of the welfare duty for boarding schools, residential special schools and children's homes continues to be the source of some confusion; including how Ofsted's focus on reporting against Every Child Matters (ECM) outcomes maps against individual NMS standards, and how inspections are now conducted and reported. Different understandings and concerns persist, which might be considered an unhelpful distraction from the real focus of safeguarding.

Recommendation 19: conduct of welfare inspection

That Ofsted publishes a statement of its approach, practice and reporting in the area of inspection of the welfare duty for boarding schools, residential special schools and schools registered as children's homes.

- 4.74** Inspecting safeguarding practices in schools is an area where it is not sufficient to focus only on outcomes. It is possible for pupils in a school to have suffered no harm despite the absence of any systematic implementation of good safeguarding practice. The purpose of safeguarding practice is both preventative – to minimise the risk of pupils coming in harm's way – and preparatory – to ensure that if problems arise, they are recognised and put right swiftly and effectively. Thus it is of vital importance that inspection both checks that appropriate policy statements and employment records etc are in place, and probes beneath the paperwork to ensure that the practices of the school are consistent with its safeguarding theory.
- 4.75** During the course of this review, inspectors have talked to me about how they use a combination of scrutiny of the paperwork and pre-inspection information, discussion of the handling of real or hypothetical incidents, and conversations with pupils and staff to 'triangulate' evidence of good or poor practice. I am convinced that while all three approaches are necessary, it is particularly important not to scrimp in this latter area – hence the concern I have expressed above about the trend towards shorter inspection visits.

Reporting inspection outcomes

- 4.76** Inspection of safeguarding arrangements is an important element of an inspection visit, but sits alongside other areas of the school's performance that inspectors are scrutinising. For schools inspected under s.162A of the Education Act 2002, the detail of inspectors' safeguarding findings and judgments are contained in the sections of the inspection report on 'welfare, health and safety of the pupils', and 'suitability of the proprietor and staff'. For schools inspected under s.5 of the Education Act 2005, the detail of inspectors' safeguarding findings and judgments are contained in the sections on 'care, guidance and support' and 'leadership and management', and where appropriate on 'effectiveness of boarding provision'. While looking at a number of education inspection reports during the course of this review, I have noticed that Ofsted does not always reflect in the summary evaluation of the school at the front of the report any failure to comply with safeguarding standards. This information sits in a section near the back of the report. I think that when this information is not presented up front, it represents a weakness in the inspection report, and is potentially misleading to parents or other lay readers, who may interpret the omission as a sign that the school has met all safeguarding standards. On the other side of the coin, a simple, explicit statement that a school is complying with all statutory safeguarding requirements would be a useful and reassuring addition to the summary evaluation of the school.

4.77 Given the importance of inspection reports as an authoritative source of information for parents on the safeguarding performance of schools, it seems to me anomalous that boarding schools, non-maintained special schools and maintained residential special schools should be required to provide parents with a copy of the school's education inspection report, but not be required to provide them with a copy of the welfare inspection report.

Recommendations 20 and 21: inspection reports

- That the inspectorates flag a school's success or failure to comply with all safeguarding requirements at the beginning of all inspection reports, either by including a sentence in the summary evaluation of the school, or by bringing forward to the front of the report the section on compliance with regulatory requirements.
- That DCSF require boarding schools, non-maintained special schools and maintained residential special schools to provide parents with a copy of their welfare inspection reports.

4.78 I have discussed above the importance of inspectors knowing about any referrals by the school to List 99/PoCA, and responding to that information by giving particular scrutiny to the way in which the school has implemented its safeguarding practices. When this is the case, it is of paramount importance that the DCSF as registering authority in the case of independent schools, including Academies and CTCs/CCTAs, and non-maintained special schools, or the maintaining LA in the case of maintained residential special schools and state boarding schools, be confident that inspectors have investigated closely the school's current safeguarding practices against the circumstances of the referrals, to check that those practices meet statutory requirements. Where they do not, this information should act as an immediate trigger for the DCSF or the maintaining LA to take action with the school to put the matter right (see section on regulatory action below).

Recommendation 22: feedback on safeguarding practice following List 99/PoCA referrals

That in addition to sending the inspection report, the inspectorate should explicitly flag to the DCSF or maintaining LA at the end of the inspection visit where action taken by the school to review and strengthen its safeguarding practice following a referral to List 99/PoCA is judged to be inadequate.

4.79 I am not, however, persuaded by the argument that information about the number of any referrals to List 99/PoCA should be made available to parents and the public, for the following reasons:

- publishing a number of referrals would prompt more questions than could be answered, about the identity of pupils and staff involved, and the speculation that would inevitably follow could be unproductive;
- the potential impact of such speculation on the school's reputation could present a strong incentive for some schools not to make referrals;
- this would have the opposite effect to that desired, and undermine the system outlined above of accountability to the registering authority.

4.80 I do not think the approach I suggest in any way deprives parents of information they need when deciding on a school for their child or whether to maintain him/her in the current placement. In the circumstance where the inspectors found that the school had, where necessary, not sufficiently tightened its procedures and practice following the referral, the fact of the school's failure to meet any statutory safeguarding requirements would be flagged clearly, and as I suggest prominently, in the inspection report. In the circumstances where the inspectors were fully satisfied that any necessary lessons had been learned and the school's practice was robust, the inspection report would reflect this fact clearly and prominently for parents to see.

How regulatory action is measuring up to expectations

4.81 For schools' accountability to their registering authority or maintaining LA to be effective, these bodies need information on which to judge schools' continuing adherence to regulatory safeguarding requirements, and power to act and require action when necessary.

4.82 The recommendations I make earlier in this report – about the inclusion of safeguarding information in independent schools' annual return to DCSF, about the provision of similar information from non-maintained special schools to DCSF, and about the inspectorates reporting to DCSF on action taken by schools to review and strengthen their safeguarding practice following a referral to List 99/PoCA – aim to plug gaps in current arrangements and provide DCSF as registering authority with important safeguarding information that it currently does not systematically receive. I am, however, aware of shortcomings in DCSF's current powers to enforce action.

4.83 DCSF receives a copy of every education and welfare inspection report of every school for which it is registering authority. Where a failure to meet a statutory safeguarding requirement is flagged, DCSF pursues the matter direct with the school:

- if the regulatory failing is a minor technicality, and the overall inspection judgment is satisfactory or better, DCSF will ask the school for a non-statutory action plan, setting out what action the school will take to put the matter right;
- if the failings are more serious, or the overall inspection judgment is unsatisfactory or inadequate, DCSF will issue a formal statutory notice, requiring an action plan which it sends to the inspectorate for evaluation.

4.84 DCSF can respond to the action plan in the following ways:

- accept it if it is satisfactory, and tell the school it will be reinspected the following term to ensure all standards are now being met;
- accept the action plan with modifications, and arrange reinspection as above;
- reject the action plan; and either
- require prompt submission of another action plan; or
- institute the deregistration process.

4.85 DCSF considers the action plan process to be effective, but if there is a risk of serious harm to pupils, it can move directly to full or partial deregistration, and require the school to close, or to restrict its operation in a number of ways, such as to cease boarding, stop admitting new pupils, close its junior school etc. The school has a 28 day right of appeal to the First Tier Tribunal. The current shortcoming in this process is that if the school does appeal, the deregistration process stops until the Tribunal has heard the case, which may take up to a year to happen, and *the school is able to continue to operate during this delay*. Powers granted under the Education and Skills Act 2008 will allow DCSF, from September 2010, to apply to a Justice of the Peace for immediate full or partial closure of the school where there are serious welfare failings; and in those circumstances the school would still have the right of appeal but, crucially, not be able to operate while the appeal was being heard. The new powers, once commenced, will go a long way to assuring DCSF an appropriate range of effective intervention action.

How local safeguarding authorities are measuring up to expectations

4.86 Where schools are working in partnership with local statutory agencies with a safeguarding role and other Local Safeguarding Children Board partners, their capacity to operate robust safeguarding practices is strengthened. The more isolated a school is, the less linked in it is to local systems, the more likely it is that things will go wrong.

4.87 The theory of current safeguarding arrangements assumes a level of cooperation and engagement from both schools and their local safeguarding authorities:

- 'Safeguarding Children and Safer Recruitment in Education' spells out that schools are required to put in place child protection policies and procedures that are in accordance with locally agreed inter-agency procedures;
- 'Working Together' spells out local authorities' responsibility under the Children Act 2004 for establishing a Local Safeguarding Children Board in their area that, as a minimum, uses existing networks or forums to ensure state and independent schools are represented and involved, or encourages and develops suitable networks or forums to facilitate communication between these schools and the LSCB;
- 'Working Together' also stresses to LSCBs the importance of training involving and being available to all relevant partners, and of the needs of those partners that are not part of a local Children's Trust being included when training arrangements are set up.

4.88 The clear message from evidence gathered for this review is that in practice the level of cooperation and engagement vary considerably. Of course, responsibility for this may lie either with the school, the local safeguarding authorities, or both; and productive collaborative working requires the active engagement of all parties. The recommendations in the section of this report on school action are aimed at strengthening engagement on the school's part; the observations and recommendations in this section of the report focus therefore on the action by local authorities and other local agencies under the umbrella of the LSCB.

4.89 There are three main areas of activity to highlight:

- the extent to which LSCBs, and local authorities on their behalf, reach out to schools within scope of this review, invite them to participate in local safeguarding arrangements, and take account of their circumstances and needs when setting up training arrangements and other safeguarding services;

- how local authorities and other local statutory agencies with a safeguarding role work with schools over the handling of formal allegations;
- how local authorities work with schools to discharge their responsibilities towards pupils, including when the pupil attends a school out of its home area, and when a pupil with special educational needs or a looked after child is placed by a local authority in a school.

LSCB and LA outreach to schools

4.90 The evidence gathered from schools for this review paints a very diverse picture of practice, from areas where schools report excellent relationships, to other areas where they are ignored. I have looked in some detail at areas that demonstrate particularly good practice, and would highlight the following common features:

- the LSCB and local authority are clear that the LSCB's statutory objective to safeguard and promote the welfare of children in their area, and the LA's Every Child Matters responsibilities, extend to *all* children receiving services in their area, irrespective of the type of school in which they are being educated, and of the LA area (or in the case of overseas pupils, the country) they come from;
- the LA has provided resources to support the work of the LSCB with schools that are not mainstream maintained schools, typically the time of a Local Authority Designated Officer or education safeguarding officer, and used this resource to take active steps to identify and contact every school in its area, and drive ongoing liaison with them;
- they have established good relationships by concentrating at first on offering schools support, information and advice rather than challenging their practice, and subsequently found themselves better able to engage in constructive challenge when working together is well established;
- they offer a service where schools have a single named point of contact for information and advice;
- they familiarise themselves with the particular circumstances and needs of the full and diverse range of schools in their area, including boarding schools, special schools and faith schools, and ensure that the services they offer take those needs into account – for example running some training sessions out of school hours, so that staff from very small schools operating on a tight budget can attend; recognising that staff from some religious schools would not be able to attend mixed gender sessions; or ensuring that training available to residential special schools covers social care and dealing with the safeguarding needs of pupils who have behaviour or communications difficulties.

4.91 It is important to recognise that not all LSCBs currently have the same capacity to engage productively in this field. Establishing good safeguarding relationships is also easier in some areas than in others, and can be facilitated or hampered by the history of relationships locally. Some LAs, for example, reported difficulties in identifying local independent schools, but EduBase, the register of all educational establishments in England and Wales maintained by DCSF⁶, now allows them to access up to date information on all schools operating in their area. The involvement of committed people with determination and energy is another common feature of where excellent practice has grown up, and while this is a clear advantage in the early days, could become a weakness if ways of working are not embedded in a manner that will continue when such motivated people inevitably move on.

4.92 Establishing and maintaining the types of services described above can have resource implications, but schools report a willingness to pay for, for example, training, so long as the fees are reasonable and affordable, the quality is high and the content is relevant to their needs. Some LAs charge maintained schools in their area for these services, and offer them to independent schools and non-maintained special schools on the same basis. Other LAs have set up 'service level agreement' arrangements where schools can choose between different services, that might include on-site training for all staff and annual audit of safeguarding practices, in addition to advice, guidance and training for the school's designated child protection officer. I understand that the Local Government Association (LGA), the Improvement and Development Agency for Local Government (IDeA) and Association of Directors of Children's Services (ADCS) are working with partners to develop a range of programmes and tools to support localities in strengthening their safeguarding performance.

Recommendation 23: safeguarding support for local areas

That DCSF should encourage LGA, IDeA, ADCS and partners to consider what support they might offer to LAs and LSCBs in developing partnership arrangements with the full and diverse range of schools in their area.

4.93 Schools that belong to associations that offer access to safeguarding support services – particularly specialised services such as training for boarding house staff or for staff working with pupils with disabilities and special educational needs – may not be as reliant on training offered by the LSCB/LA as small, non-association schools are. But it is important nonetheless that the LSCB/LA reach out to all schools in their area and encourage their engagement in local safeguarding arrangements, in

6 <http://www.edubase.gov.uk/home.xhtml>

order to establish effective partnership working, a clear understanding of the thresholds for referral, and to share learning and good practice.

- 4.94** A case in point is how schools should respond to distress and/or injuries associated with children being restrained; and to instances where inappropriate or unauthorised restraint methods have been used. These are issues of particular significance for some special schools, but can arise in other settings as well. Special school placements are frequently made for children whose behaviour is extremely ‘challenging’ to manage. Clear protocols need to be established by LSCBs for the notification of injuries sustained where physical restraint has been necessary or where there are concerns about restraint techniques.

Recommendations 24-26: LSCB and LA arrangements

That DCSF should:

- reinforce, for example in revisions to statutory and non-statutory guidance, LSCBs’ existing responsibilities to reach out to all schools in their area, and ensure that the advice and training needs for all schools are taken into account in local safeguarding arrangements overseen by the LSCB;
- promote the extension of good practice in this area, for example the allocation of dedicated resources to safeguarding outreach work, and the provision of single points of contact for advice and guidance;
- reassert, for example in the proposed statutory guidance for Directors of Children’s Services and Lead Members on improving ECM outcomes, and in proposed guidance to Children’s Trusts Boards on the content and scope of Children and Young People’s Plans, that local authorities’ ECM responsibilities extend to *all* children receiving services in their area, irrespective of the type of school in which they are being educated, and of the LA area (or in the case of overseas pupils, the country) they come from.

Handling allegations

- 4.95** A significant by-product of schools being encouraged and supported to establish good working relationships with local safeguarding partners is that when problems do arise, both the schools and the safeguarding authorities will be prepared to take effective action to put the problem right. They will have the same knowledge of local thresholds and procedures and already enjoy a professional relationship that is built on shared understanding of respective roles.

4.96 That scenario does not universally match current experience, in which many schools report bruising experiences of being left in the dark following a referral to the local authority. In a typical case, the local police may require all action by the school to cease while they decide if a prosecution is warranted, leaving the school with minimal information with which to manage the concerns of pupils, parents and staff, including staff who may be suspended from duty. The school may then find the matter referred back to them some time later, when the police have decided this is not a case for prosecution. But in the meantime, the school has had to cope with the anxiety of pupils, parents and staff about how the case will proceed; may have incurred substantial costs associated with lengthy suspensions; and is now faced with the task of investigating the matter properly themselves, made more difficult as the trail is cold.

4.97 While it is understood that statutory authorities need time to consider allegations carefully, there is clearly scope for better communication between authorities and schools, to manage expectations about timescales. In one example of good practice from an LSCB, the designated point of contact has acted as an intermediary between a school, children's social care and the local police, to ensure an adequate flow of information between all parties.

Recommendation 27: handling allegations

That DCSF should specify that one of the focuses of LSCBs' work to engage schools with local safeguarding arrangements should be to ensure that local protocols for handling allegations, including reasonable timescales and how progress is communicated between parties, are in place and effectively implemented.

- 4.98** My comments and recommendations relating to local authorities have thus far focused primarily on how they work with schools located in their area. There is, however, another important area of LA safeguarding responsibilities that I have considered, and that is their responsibilities towards individual children. Such children may live in their area, but have been placed by their parents in an out of area school; may be attending school in their area but come from overseas; or may be children looked after by the LA, children with statements of special educational needs, or children who are both looked after and have a statement, whom the LA has placed in a school – typically a non-maintained special school, a maintained residential special school or a boarding school.

LA safeguarding responsibilities towards individual children – out of LA area

- 4.99** Schools that draw their pupils from a wide geographical area face additional complications associated with the need to manage relationships with a large number of pupils' home LAs, in addition to the central relationship with the LA in which the school is located. This particularly affects residential schools, but can also be an issue for day schools close to the border of several LA areas.
- 4.100** Schools are most likely to have to engage with LAs other than their host LA in two contexts – where a pupil has been placed at the school by the LA; and when handling a specific allegation or safeguarding issue that involves a pupil normally resident in another area. I comment on the role of placing LAs and their relationships with pupils and schools in more detail below. On schools' relationships with pupils' home LAs in the context of allegations handling, the key difficulty reported by schools is the significant differences that exist between the ways of working of different LAs – such as how they structure their services, routes of communication and readiness to work together. Clearly, schools and safeguarding authorities in pupils' home LAs are unlikely to be able to draw on the same level of personal and professional familiarity that I suggest should result from working together in their own area's LSCB; but I would expect LAs to use the knowledge and the experience of engaging with local schools and agreeing with them

allegations management protocols, to anticipate and address the procedural and communications needs and concerns of out-of-area schools in such circumstances.

LA safeguarding responsibilities towards individual children – overseas pupils

4.101 The position of overseas pupils is particularly complicated, where there is no 'home' authority with which the school can readily engage. Representations from schools to this review reflect significant concerns and lack of clarity about how they should act when they are worried about the welfare of an overseas pupil; for example how to access help and advice when an overseas boarder arrives bearing signs of non-accidental injury, or pleads not to be returned home for reasons of fear.

Recommendation 28: responsibility for overseas pupils

Linked to the proposal above (Recommendation 26) that DCSF reassert to LAs that their Every Child Matters responsibilities extend to all children receiving services in their areas, that the DCSF should advise schools and LAs that schools should contact the LA in whose area the school is located when they have concerns about the welfare of an overseas pupil.

4.102 Another avenue open to DCSF to address the inherent vulnerability of overseas pupils is to include them within scope of ContactPoint arrangements. The position in current regulations is that ContactPoint should hold data only on all children ordinarily resident in England; hence overseas pupils, children in families whose residence status has not yet been determined, and indeed pupils from other countries in the UK attending school over the border in England are not included.

Recommendation 29: ContactPoint

That DCSF take steps to ensure that pupils who receive education in schools in England, but who are not ordinarily resident in England, are covered by ContactPoint.

LA safeguarding responsibilities towards individual children – pupils placed in a school by an LA

4.103 Pupils placed by an LA in a school, because that school is named in their statement of Special Educational Needs, or because the pupil is 'looked after' by an LA, are often doubly vulnerable in safeguarding terms – because of their disability or special educational need or by the circumstances that triggered their looked after status; and if they board, because they are likely to be at some distance from their parents whose engagement with the school may be minimal.

4.104 Respondents to the review flagged general factors that are combining to make some schools that cater for such pupils particularly in need of support:

- pupils' needs are increasing in complexity and changing fast, with more pupils having multiple impairments, and some schools have difficulty responding to changing pupil needs;
- added to this, because more children with less complex needs are being accommodated in mainstream schools and the maintained sector, special schools in the independent and non-maintained sectors are increasingly taking children with the most complex needs;
- schools operating under pressure are more likely to be working in isolation, and in these circumstances it is possible for behaviours to become acceptable that would not be accepted elsewhere.

4.105 Ensuring the safeguarding of these children should therefore be a priority for the LA that places them in their school. The evidence received to this review is that there is great disparity between practice in the way the LA chooses to exercise its continuing responsibilities towards each placed child, and significant scope for better practice.

4.106 Although there may have been some improvements in recent years, a key issue remains the way the LAs work with schools to plan pupil placements. When a child arrives at a school without his or her circumstances and needs having been properly explained and thoroughly discussed, the success of the placement and the child's safeguarding are immediately put at risk. Then there are issues around how the LA monitors pupils' safety and wellbeing while they are at the school – although some schools reported experience of LAs that maintain an active and supportive relationship with the school and the pupil, the review also received reports of LAs that attend annual statement review meetings but don't even see the pupil. A further concern that has been raised is that once a placement has been made, a school typically has more continuing contact with the LA finance department than it does with the children's services department.

4.107 The Children and Young Persons Act 2008 introduces new requirements on LAs to support children in long term residential placements, including a duty to visit such children, and to provide services to support the continuing active involvement of the parents in their child's life. As the detail of these requirements will be set out in regulations, I would urge DCSF to ensure that the regulations give appropriate weight to safeguarding concerns.

Recommendations 30 and 31: support for pupils placed in a school by an LA

- That regulations to be made under the Children and Young Persons Act 2008 concerning support for pupils in long term residential placements ensure that pupils placed by an LA in a residential school should be visited regularly by a representative of their placing authority, and have ongoing direct access to an independent visitor, whom they may also contact between scheduled visits, with whom they are able to raise any concerns about their safety and wellbeing.
- That placing LAs
 - take a closer interest in the way in which the receiving school participates in local safeguarding arrangements overseen by the LSCB in whose area it is located, for example by asking before making a placement and at regular reviews for evidence of the school's engagement;
 - contribute to school inspection evidence by offering their perspective on the safeguarding performance of the school.

Issues out of scope

- 5.1 During the course of this review, I have become aware of a small number of safeguarding issues that fall outside the formal scope of my remit, but to which I draw attention.

Unregistered ‘schools’

- 5.2 Some concerns were expressed to me about the existence of unregistered “schools” which are believed to exist in very orthodox faith communities. The issue of unregulated institutions fell outside my terms of reference and I have not collected evidence which enabled me to form a view about the welfare of children who may attend them. But on the face of things, institutions that have chosen to evade registration may also cut corners on safeguarding measures.

Guardianship and private fostering arrangements for pupils attending independent schools

- 5.3 This issue concerns oversight and regulation of guardianship and private fostering arrangements for pupils attending independent schools. These pupils are typically from overseas, but also include UK pupils attending school while their parents are overseas (eg with the armed services) or otherwise unavailable to care for them. They may be attending school as day pupils and living with a private guardian, or may be formal boarders at a school during term time, but living in private fostering arrangements during holidays. In all cases, schools will require details from the pupil’s parents of the arrangements they have made, the name and contact details of a responsible person, and ask for clear authority on to whom they should release the child. I have been told of instances where a school has carried out its own checks on the person named, but schools are generally very reluctant to get formally involved in the making of these arrangements, as a day school that did so could as a result fall within scope of the welfare duty for boarding schools; and a boarding school could fall within scope of the welfare duty for children’s homes, with the consequential implication of having to comply with more onerous minimum standards.

- 5.4** There are a number of agencies that specialise in finding guardians for overseas pupils; and the organisations that recruit overseas pupils for British independent schools may also offer this as a service, or put parents in touch with specialist agencies. In other cases, pupils will be left in the care of relatives or family friends, or 'friends of friends'.
- 5.5** This is an area of safeguarding concern that has been raised with me many times over the last months. (A similar area, also out of scope of this review, concerns children and young people attending summer schools). I have details from one LA of the steps they have taken to work with local independent schools to identify these types of arrangements, but I am concerned that they largely fall beneath the radar of LAs' private fostering monitoring arrangements, and therefore that unknown numbers of children may be placed in private arrangements that have not been the subject of CRB checks and inspection etc.

Regulation of post-16 provision in independent colleges

- 5.6** This area concerns the regulation of post-16 provision in mainstream independent FE colleges. I understand that currently there is no mechanism to inspect or register these institutions, either for education or for welfare. My concern is that 16-18 year olds are vulnerable, particularly when they are in boarding provision, and that present arrangements do nothing to safeguard them. I have learned of one independent FE college that admitted a handful of pupils of compulsory school age so that it could be registered as a school, and therefore be inspected against the welfare duty for boarding schools. Although this issue may be resolved in time when the raised participation age bites, I would recommend that it warrants further action to investigate and address it now.

Recommendation 32: issues out of scope

That DCSF takes further action to investigate and address these three issues. In the case of guardianship and private fostering arrangements, this further work might possibly be undertaken by the Private Fostering Advisory Group.

Summary of Recommendations

Recommendation 1: revision of the regulatory framework

That DCSF undertakes a comprehensive re-appraisal of the entire regulatory framework as it applies to the categories of school within scope of this review, aimed at reducing overlap, eliminating inconsistency, updating requirements and filling gaps, to achieve the further benefits of reducing the regulatory burden and improving the quality of safeguarding within schools.

Recommendation 2: CRB Disclosure requirements

That DCSF urgently clarifies the different requirements that apply to staff in boarding and day provision, in relation to staff commencing work prior to receipt of CRB Disclosures, and that the inspectorates ensure inspectors are briefed accordingly.

Recommendation 3: central record of recruitment and vetting checks

That DCSF modifies the model central record in ‘Safeguarding Children and Safer Recruitment in Education’ to include columns that record the start date, job role and CRB unique reference number for each member of staff.

Recommendation 4: children missing education

That DCSF, as part of the overhaul of the regulatory framework, should ensure that all independent and non-maintained schools are required to notify the LA when children of compulsory school age leave the roll, and to inform them of the destination where this is known to them.

Recommendation 5: safer recruitment training

That DCSF considers extending the availability of the National College of School Leadership package of accredited safer recruitment training to more people in schools.

Recommendation 6: guidance to schools

That DCSF considers the provision of a 'helpline' for schools, to offer practical, situational advice on implementing the practices described in 'Safeguarding Children and Safer Recruitment in Education'.

Recommendation 7: standards of independent school governance

That DCSF should include the following measures in the proposed leadership and management standards for independent schools, and review their impact after three years of operation:

- a requirement that the proprietor make arrangements for independent scrutiny and challenge of the school's safeguarding policies and practices. That role might be carried out by a nominated governor or trustee on behalf of the governing body/board where they exist in the school. Where there is no governing body, the role may, for example, be delivered by an independent safeguarding 'visitor' approved by the Local Safeguarding Children Board. Whatever arrangement the proprietor chooses to put in place, it should be his responsibility to demonstrate its effectiveness and independence.
- an expectation that independent schools should participate in local safeguarding arrangements overseen by the Local Safeguarding Children Board.

Recommendations 8 and 9: accountability to the registering authority

That DCSF should:

- require independent schools to include a report of the proprietor's annual review of the school's safeguarding policies and procedures and the discharge of the proprietor's safeguarding duties, as part of their annual return to the DCSF as registering authority under Part 4 of the Schedule to the Education (Provision of Information by Independent Schools)(England) Regulations 2003 as amended. This report should be signed off by the person exercising independent scrutiny and challenge of the school's safeguarding policies and practices (see Recommendation 7 above), and should cover recruitment and training activity, confirm the review of policies and practices and the maintenance of a central log of all actions taken in pursuit of individual safeguarding concerns raised, and outline the action the school has taken to participate in local safeguarding arrangements overseen by the LSCB. The DCSF should make the report available to the relevant inspectorate, alongside other information collected as part of the annual return. There would also be

value in the school sharing it with the relevant LSCB and where applicable with placing LAs. This would provide the LSCB with useful data on which to develop its forthcoming advisory and training plans and it would give a placing LA confidence that safeguarding issues were being appropriately addressed. DCSF should review the impact of these measures after three years of operation.

- extend the requirement on non-maintained special schools so that when they have completed their annual review of their safeguarding policies and procedures, they send also to DCSF the information they provide to the local authority about those policies and procedures and about how their safeguarding duties have been discharged.

Recommendations 10 and 11: inspection of the welfare duty for boarding and residential special schools

- That the DCSF considers with Ofsted and the relevant associations the impact on boarding and residential special schools' safeguarding improvement activity of the decision that Ofsted should not carry forward the advice, guidance and development role previously provided by CSCI in addition to its inspection function, with a view to agreeing what compensatory support to schools might be provided.
- That Ofsted reconsiders the threshold number of boarders in a school to trigger inclusion of a Boarding School Additional Inspector in an inspection team.

Recommendations 12, 13 and 14: frequency of inspection

- That the frequency of welfare inspections should not be reduced from current levels in residential special schools and schools also registered as children's homes, and that the three year interval between welfare inspections in boarding schools should be considered an absolute maximum, with a presumption of more frequent and short notice/unannounced inspection.
- That following the introduction in September 2009 of new arrangements for inspection under s.5 of the Education Act 2005, DCSF should monitor the adequacy of a 5-6 year cycle of inspection of safeguarding for Academies, CTCs/CCTAs and non-maintained special schools who receive only day pupils.

- That re: the frequency of inspection of safeguarding of independent schools under s.162A of the Education Act 2002, the presumption should continue to be for inspection at least once every three years for day schools that are therefore not also subject to welfare inspection, while these schools adjust to the new leadership and management standard when it is introduced.

Recommendation 15: duration of inspection

That the DCSF discusses with Ofsted, and the sectoral inspectorates as appropriate, the duration of inspection visits under s.5 of the Education Act 2005, s.162A of the Education Act 2002, and against the relevant National Minimum Standards, with a view to ensuring that sufficient time is available for effective inspection of safeguarding policies and practices, including, in the case of boarding schools and residential special schools, in every boarding house or residential unit.

Recommendation 16: collection of workforce data

That DCSF extends the scope of the new school workforce census to include non-maintained special schools.

Recommendation 17: information from DCSF and the Independent Safeguarding Authority on referrals made by school to List 99/PoCA

That DCSF:

- ensures that the information provided by them and the ISA to inspectors gives sufficient detail to allow the inspection team to review the conduct of the investigation in accordance with the school's own and locally agreed inter-agency procedures;
- puts arrangements in place to ensure similar information is provided to Ofsted in respect of referrals to List 99/PoCA made by Academies and CTCs/CCTAs.

Recommendation 18: inspection evidence from LSCBs and LADOs

That inspectorates should be required to seek information from LSCBs and LADOs in advance of inspections under s.5 of the Education Act 2005, s.162A of the Education Act 2002 and inspections of the welfare duty for boarding, for residential special schools and for children's homes. That information should include the action the school has taken to participate in local safeguarding arrangements overseen by the LSCB; whether the school has sought the advice of the LADO on specific safeguarding concerns; and in the case of state boarding schools and maintained residential special schools, information about

any referrals made to List 99/PoCA, with sufficient detail to allow the inspection team to review the conduct of the investigation in accordance with the school's own and locally agreed inter-agency procedures.

Recommendation 19: conduct of welfare inspection

That Ofsted publishes a statement of its approach, practice and reporting in the area of inspection of the welfare duty for boarding schools, residential special schools and schools registered as children's homes.

Recommendations 20 and 21: inspection reports

- That the inspectorates flag a school's success or failure to comply with all safeguarding requirements at the beginning of all inspection reports, either by including a sentence in the summary evaluation of the school, or by bringing forward to the front of the report the section on compliance with regulatory requirements.
- That DCSF require boarding schools, non-maintained special schools and maintained residential special schools to provide parents with a copy of their welfare inspection reports.

Recommendation 22: feedback on safeguarding practice following List 99/PoCA referrals

That in addition to sending the inspection report, the inspectorate should explicitly flag to the DCSF or maintaining LA at the end of the inspection visit where action taken by the school to review and strengthen its safeguarding practice following a referral to List 99/PoCA is judged to be inadequate.

Recommendation 23: safeguarding support for local areas

That DCSF should encourage LGA, IDeA, ADCS and partners to consider what support they might offer to LAs and LSCBs in developing partnership arrangements with the full and diverse range of schools in their area.

Recommendations 24–26: LSCB and LA arrangements

That DCSF should:

- reinforce, for example in revisions to statutory and non-statutory guidance, LSCBs' existing responsibilities to reach out to all schools in their area, and ensure that the advice and training needs for all schools are taken into account in local safeguarding arrangements overseen by the LSCB;

- promote the extension of good practice in this area, for example the allocation of dedicated resources to safeguarding outreach work, and the provision of single points of contact for advice and guidance;
- reassert, for example in the proposed statutory guidance for Directors of Children's Services and Lead Members on improving ECM outcomes, and in proposed guidance to Children's Trusts Boards on the content and scope of Children and Young People's Plans, that local authorities' ECM responsibilities extend to *all* children receiving services in their area, irrespective of the type of school in which they are being educated, and of the LA area (or in the case of overseas pupils, the country) they come from.

Recommendation 27: handling allegations

That DCSF should specify that one of the focuses of LSCBs' work to engage schools with local safeguarding arrangements should be to ensure that local protocols for handling allegations, including reasonable timescales and how progress is communicated between parties, are in place and effectively implemented.

Recommendation 28: responsibility for overseas pupils

Linked to the proposal above (Recommendation 26) that DCSF reassert to LAs that their Every Child Matters responsibilities extend to all children receiving services in their areas, that the DCSF should advise schools and LAs that schools should contact the LA in whose area the school is located when they have concerns about the welfare of an overseas pupil.

Recommendation 29: ContactPoint

That DCSF take steps to ensure that pupils who receive education in schools in England, but who are not ordinarily resident in England, are covered by ContactPoint.

Recommendations 30 and 31: support for pupils placed in a school by an LA

- That regulations to be made under the Children and Young Persons Act 2008 concerning support for pupils in long term residential placements ensure that pupils placed by an LA in a residential school should be visited regularly by a representative of their placing authority, and have ongoing direct access to an independent visitor, whom they may also contact between scheduled visits, with whom they are able to raise any concerns about their safety and wellbeing.

- That placing LAs:
 - take a closer interest in the way in which the receiving school participates in local safeguarding arrangements overseen by the LSCB in whose area it is located, for example by asking before making a placement and at regular reviews for evidence of the school’s engagement;
 - contribute to school inspection evidence by offering their perspective on the safeguarding performance of the school.

Recommendation 32: issues out of scope

That DCSF takes further action to investigate and address the three issues of unregistered ‘schools’, guardianship and private fostering arrangements for pupils attending independent schools, and regulation of post-16 provision in independent colleges. In the case of guardianship and private fostering arrangements, this further work might possibly be undertaken by the Private Fostering Advisory Group.

Annex 1: Terms of Reference

Background and Rationale

The Department is committed to ensuring that systems for keeping children safe are as robust as possible. An independent Review of safeguarding policies and procedures that apply to independent schools, non-maintained special schools and boarding schools is part of this continued commitment.

Terms of Reference

The Review will look at the current statutory and non-statutory safeguarding arrangements that impact on independent schools, non-maintained special schools and boarding schools in the maintained, non-maintained and independent sectors in England. It will examine how these arrangements operate in practice, focusing on systems not individual cases. In the light of that analysis, it will make recommendations for any changes to strengthen current arrangements.

Timing

The Review will be conducted over 4 months, concluding with a report to Ministers in February 2009.

Review Methodology

The Review, which will be led by Sir Roger Singleton, Chair of the Independent Safeguarding Authority, will:

- map the requirements and expectations of the current arrangements for safeguarding procedures in these schools
- consider evidence of their application in practice, in particular whether best practice is common practice
- identify areas for improvement and make recommendations for any changes to strengthen current arrangements

- seek evidence of how the systems operate in practice from key stakeholders, including the inspectorates; children's organisations; organisations representing the different types of school under review; local authority and other partners in local safeguarding arrangements; and headteachers of the schools under review.

Scope

The Review will consider safeguarding arrangements in independent day and boarding schools, including those approved for children with SEN, Academies and CTCs; non-maintained special schools; and maintained boarding schools and special schools with boarding provision. Children's homes, including schools registered as children's homes, FE provision, and schools where boarding is provided in private homes are not included in the scope of the Review. Individual cases are also out of scope of the Review, as its focus is on the operation of systems and procedures.

The review will gather views and evidence through a series of structured interviews and visits with key stakeholders representing the range of partners and interests. It will consider how effectively arrangements for safeguarding are currently operating, focusing on the operation of systems and procedures not on individual cases. Other stakeholders who wish to contribute can send material or observations, by 28 November 2008, to safeguarding.review@dcsf.gsi.gov.uk.

The Review is confined to England though it may take evidence from devolved administrations within the UK.

Annex 2: Organisations and individuals who contributed to this review

Ofsted (Office for Standards in Education, Children's Services and Skills)
Independent Schools Inspectorate
School Inspection Service
Bridge Schools Inspectorate
Children's Rights Director
Children's Commissioner for England
NSPCC
Council for Disabled Children/National Children's Bureau
Together Trust/Children England
Children's Society
Independent Schools Council
Association of Governing Bodies of Independent Schools
Independent School Bursars' Association
National Association of Independent Schools and Non-Maintained Special Schools (NASS)
Boarding Schools Association
State Boarding Schools Association
Independent Academies Association
Catholic Education Service
Board of Deputies of British Jews
Association of Muslim Schools (UK)
GEMS Education
Priory Education Services
Association of Directors of Children's Services
Local Government Association
Charity Commission
National Confederation of Parent Teacher Associations
Association of Chief Police Officers
Criminal Records Bureau
General Teaching Council
Association of School and College Leaders
Falsely Accused Carers and Teachers (FACT)

Department for Children, Schools and Families (DCSF)
Members of the Workforce Agreement Monitoring Group
Members of the DCSF Faith Group
Government Office Safeguarding Advisers
Representatives of Local Safeguarding Children Boards, schools and local
authorities in Somerset and North Yorkshire
Local authority safeguarding officers from Cumbria, Gloucestershire,
Hammersmith and Fulham, Hampshire, Kent, Sutton

Donald Findlater, Director of Research and Development, Lucy Faithfull
Foundation
Sally Keeble MP
Mr Tom Perry – Founding contributor of “Chosen”
Mr W M R Pumfrey MA (Cantab.)

300 schools

Annex 3: Questionnaire sent to schools in scope of the review

Review of safeguarding arrangements in independent schools, non-maintained special schools and boarding schools

The Secretary of State for Children, Schools and Families has asked Sir Roger Singleton, Chair of the Independent Safeguarding Authority, to lead a review of safeguarding arrangements in independent schools, non-maintained special schools and boarding schools. The review is examining the practical operation of the current statutory and non-statutory safeguarding arrangements that apply to independent schools, non-maintained special schools and boarding schools in the maintained, non-maintained and independent sectors in England, in particular those set out in 'Safeguarding Children and Safer Recruitment in Education'. Sir Roger expects to conclude his work in February 2009.

The terms of reference for the review are available on-line at:

(<http://www.everychildmatters.gov.uk/resources-and-practice/CM00093/>)

Sir Roger is gathering evidence of how the systems operate in practice from key stakeholders, including the inspectorates; children's organisations; organisations representing the different types of school under review; local authority and other partners in local safeguarding arrangements; and headteachers and governors of the schools under review. As part of that process, he would be very interested to hear the responses of your school to the questions below.

If you would like to contribute your views to his work, please could you return your comments, by **19 December 2008**, to safeguarding.review@dcsf.gsi.gov.uk

Or by post to:

Jan Stockwell
Safeguarding Review
DCSF Level 2
Sanctuary Buildings
Great Smith Street
Westminster
London SW1P 3BT

Name of school:	Contact details:
DCSF ref no (LA/Estab.No):	
Day/boarding:	
Size:	
Gender:	
Age range:	
<p>Are you a member of a schools association? Yes/No</p> <p>If yes, which association(s) do you belong to?</p>	
<p>Questions for response (<i>NB if you have both day and boarding provision, please indicate where your comments relate specifically to boarding provision, or to day provision</i>):</p>	
<p>1a) Where do you get information, training and advice on safeguarding practices (eg Local Authority, schools association, other provider)?</p>	
<p>1b) What factors influence your decisions about where to obtain these safeguarding services?</p>	
<p>1c) Do you have any comments on the information/training/advice available (eg access, quality, cost)? Do LAs in your area make a charge for delivering them?</p>	

2a) What contacts do you have with local statutory safeguarding partners – eg Local Safeguarding Children Boards, Local Authority Designated Officers, local police – and with other local partners such as Government Offices?

2b) Where you do have contact with statutory partners, do you have any views and evidence on the impact they are having, and on their effectiveness?

3) What are your perceptions of the scope of inspection in relation to schools' safeguarding policy and practice (including where relevant, inspection against the national minimum standards for boarding schools and for residential special schools)?

4) Thinking about current safeguarding arrangements, do you have any comments on what more could or should be done, including to make existing systems more effective?

5) If you are a school that has pupils placed by a Local Authority (eg pupils with Statements of SEN or Looked After Children), do you have any comments on the practice and effectiveness of the placing LA's oversight of the pupil's safeguarding?

6) Are there any other comments you wish to make?

Thank you for taking time to respond to these questions.

Please could you return your comments, by **19 December 2008**, to safeguarding.review@dcsf.gsi.gov.uk or by post to the address on page 1.

The information you provide in your response will be subject to the Freedom of Information Act 2000 and Environmental Information Regulations, which allow public access to information held by the Department. This does not necessarily mean that your response can be made available to the public as there are exemptions relating to information provided in confidence and information to which the Data Protection Act 1998 applies. You may request confidentiality by ticking the box provided, but you should note that neither this, nor an automatically-generated e-mail confidentiality statement, will necessarily exclude the public right of access.

Please tick if you want us to keep your response confidential.

Name

Position in School:

Address:

