

Amendment Regulations for Independent Schools; consolidated regulations for Non- Maintained Special Schools; and revision of National Minimum Standards for Boarding Schools and Residential Special Schools

Consultation Response Form

The closing date for this consultation is: 11 March
2010

Your comments must reach us by that date.



THIS FORM IS NOT INTERACTIVE. If you wish to respond electronically please use the online or offline response facility available on the Department for Children, Schools and Families e-consultation website (<http://www.dcsf.gov.uk/consultations>).

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 Kate Fitch
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If your enquiry is related to the policy content of the consultation please email:
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Non-Maintained Special School Regulations; Janice.halladay@dcsf.gsi.gov.uk

National Minimum Standards: Elaine.haste@dcsf.gsi.gov.uk

or telephone:
0870 000 2288

If you have a query relating to the consultation process you can contact the Consultation Unit on:

Telephone: 0870 000 2288

Fax: 01928 794 311

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Please tick the box that best describes you as a respondent.

<input type="checkbox"/> School Proprietor, Governor, Head or staff member (please complete the next section)	<input type="checkbox"/> Other type of educational setting (please specify below)	<input type="checkbox"/> Professional body/Association
<input type="checkbox"/> Parent/carer	<input type="checkbox"/> Inspectorate	<input type="checkbox"/> Local Authority
<input type="checkbox"/> Other Professional e.g. social worker-GP	<input type="checkbox"/> Child or Young person	<input checked="" type="checkbox"/> Other

The NSPCC:

The National Society for the Prevention of Cruelty to Children (NSPCC) is the UK's leading charity specialising in child protection and the prevention of cruelty to children. The NSPCC aims to end cruelty to children in the UK over future generations. In pursuit of our vision we will:

- Create and deliver services for children which are innovative, distinctive and demonstrate how to enhance child protection most effectively
- Provide advice and support to ensure that every child is listened to and protected
- Provide advice and support to adults and professionals concerned about a child and if necessary take action to protect the child
- Work with organisations which work with children to ensure they effectively protect children and challenge those who do not
- Campaign for changes to legislation, policy and practice to ensure they best protect children
- Persuade everyone to take personal responsibility for preventing cruelty to children
- Inform and educate the public to change attitudes and behaviours towards children
- Use our statutory powers as necessary to protect children.

Please tick the box that best describes the school you own/run/attend/work in:

<input type="checkbox"/> Independent School (day provision only)	<input type="checkbox"/> Independent School (with residential provision)	<input type="checkbox"/> Independent School specially organised for pupils with SEN (day provision only)
<input type="checkbox"/> Independent School specially organised for pupils with SEN (with residential provision)	<input type="checkbox"/> Non-Maintained Special School (day provision)	<input type="checkbox"/> Non-Maintained Special School (with residential provision)
<input type="checkbox"/> Maintained Special School (day provision only)	<input type="checkbox"/> Maintained Special School (with residential provision)	<input type="checkbox"/> Maintained Boarding School
<input checked="" type="checkbox"/> Other – please specify		

The NSPCC works across a range of education settings and has expertise in child protection and safeguarding children at school. Our response draws on the experience of NSPCC education specialists working in England and is confined to issues of which we have working knowledge. NSPCC education specialists provide training and advice to teachers on a wide range of child protection-related areas. Their aim is to help school staff identify signs of possible abuse and give children the skills they need to protect themselves. They do this in a number of ways which include providing independent counselling, advice and support for children and young people and giving them the confidence to seek help. They also provide school staff with the opportunity to talk to a trusted professional in confidence if required. This work supports schools to fulfil their statutory duty to safeguard and promote the welfare of children, as set out in the Education Act 2002.

Section 1 (Questions 1 - 2) is relevant to all respondents.

Section 2 (Questions 3 - 7) is relevant to those interested in regulations affecting Independent Schools

Section 3 (Questions 8 - 13) is relevant to those interested in regulations affecting Non-Maintained Special Schools

Section 4 (Questions 14 - 19) is relevant to those interested in the National Minimum Standards for Boarding Schools and Residential Special Schools

Section 1 - General Questions

We are interested in your views on our approach to implementing Recommendation 1 of Sir Roger Singleton's review of safeguarding arrangements '*Keeping our School Safe*'.

1 Do you consider that the actions proposed will improve the quality of safeguarding within schools; reduce overlap, and eliminate inconsistency; update requirements; and fill gaps as necessary?

Yes

No

Not sure

It is not possible at this stage to judge whether the new regulations and National Minimum Standards (NMS) will be completely successful in improving consistency and filling gaps. This is because several proposed changes are dependent on the content of pieces of guidance which are still due to be updated. For example, the NSPCC would like further clarification of the rules surrounding the use of Criminal Record Bureau (CRB) checking for staff employed in independent boarding and day schools, which will be set out in the revised *Safeguarding Children and Safer Recruitment in Education (SCSRE)* guidance.

However, we welcome the emphasis throughout the revised regulations and NMS on improving the welfare and safety of children who attend independent schools. Every child has the right to be safe and protected at school and this should be the case regardless of the type of educational setting they attend. For this reason, we welcome the government's efforts to improve the safeguarding of children within independent schools as recommended in the Singleton Review, '*Keeping our schools safe*.'¹ In particular, we welcome the new duty placed upon independent schools to have regard to the policies and procedures of their Local Safeguarding Children Board (LCSB) and the new requirement for annual independent scrutiny of independent school's safeguarding policies and procedures.

2 Bearing in mind that we need a system that will work within the context of existing primary legislation for all types of educational settings (from maintained, through non-maintained, to independent). Is there anything that you think would improve proposals?

¹ Singleton, R (2009) *Keeping our school safe: Review of Safeguarding Arrangements in Independent Schools, Non-Maintained Special Schools and Boarding School* London: ISA.

Yes

No

Not sure

There should be greater consistency throughout all the documents covered by this consultation in relation to complaints. We discuss this in more detail in our response to question 11. In our response to question 19, we propose changes to the draft NMS which we consider will strengthen complaints mechanisms related to child protection and safeguarding issues.

Section 2 The Education (Independent School Standards) (England) (Amendment) Regulations and the Education (Provision of Information by Independent Schools) (England) Regulations

3 The regulations introduce a new leadership and management standard for independent schools. The intention is that the standard will enable inspectors to make judgements about how effectively a school's leadership and management support the current regulatory standards. Do you agree that the new standard achieves this aim?

Agree

Disagree

Not sure

The NSPCC welcomes the new Regulation 13 which introduces a standard for independent schools on the Quality of Leadership and Management as a condition of registration. Regulation 13 sets out a clear expectation that the school's management is responsible for achieving the standards for independent schools and holds them more effectively to account for the effectiveness of each school's safeguarding arrangements.

4 The new standard also introduces the requirement for a procedure which allows staff to raise concerns about the welfare of pupils without being disadvantaged. Do you think this proposal will improve standards for pupils?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not sure
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We welcome the clarification of the legal position concerning the protection of whistleblowers acting in the public interest. Whistleblowing policies and procedures for staff are an important part of good safeguarding practice for schools. NSPCC research into safeguarding practices in Residential Special Schools found that schools with an explicit whistleblowing procedure, an open 'no-blame' and good staff support were most effective at keeping children safe.² Policies should clearly outline the responsibilities of staff to raise concerns about pupil welfare and the responsibilities of managers for creating a climate in which concerns are taken seriously and dealt with thoroughly and fairly. Although staff across all settings currently have some protection in these circumstances, as outlined in the 'Safeguarding Children and Safer Recruitment in Education' guidance, providing an explicit assurance for staff working in independent day schools may make staff feel better protected and less concerned about the potential personal impact on them of reporting any welfare concerns.

5 The regulations contain proposals for implementing some of the recommendations in Sir Roger Singleton's review of safeguarding arrangements 'Keeping our School Safe'. These include strengthening the requirement for schools to comply with locally agreed procedures, arranging for an independent scrutiny of the schools safeguarding arrangements and providing the Department with a copy of the report of their annual review of safeguarding policies and procedures. Do you think these proposals will strengthen safeguarding arrangements in independent schools?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not sure
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² Paul, A Cawson, P and Paton, J (2004) *Safeguarding disabled children in Residential Special Schools* London: NSPCC

The NSPCC welcomes the emphasis on improving the welfare and safety of all children who attend independent schools. In particular we welcome the new duty on independent schools to have regard to policies and procedures developed by the Local Safeguarding Children Board (LSCB) in the Local Authority area in which the school is situated. In our evidence to the Singleton Review we expressed concern about the low level of engagement by independent schools with LSCBs. This view was based on a survey of NSPCC LSCB representatives which was carried out in 2008. The LSCB is the key statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of children, and ensures the effectiveness of what they do. We therefore believe that stronger links will help improve independent school's practice in relation to safeguarding. However, it will be important that this requirement is implemented robustly across the independent sector.

The NSPCC welcomes the new requirement for annual independent scrutiny of a school's safeguarding policies and procedures. We agree that the 'scrutineer' should be a person who is independent of the school and who has knowledge and experience in matters covered by the welfare policies and procedures.

We agree that independent schools should provide the Department with a copy of their annual review of safeguarding policies and procedures. At present, these schools are not under any duty to share their account of how they have discharged their safeguarding duties, unlike schools in the maintained sector. As recommended in the Singleton review, the annual report should also be shared with the relevant LSCB to enable it to develop forthcoming advisory and training plans, and with the placing Local Authority to help it to assess whether safeguarding issues are being appropriately addressed.³

6 Have you any comments on our proposal to give independent schools the choice of publishing information for parents on a school's website or sending the information on request?

³ Singleton, R (2009) Singleton, R (2009) *Keeping our school safe* London: ISA Page 30, Recommendations 8 & 9

It is important that parents should be able to access information easily and in many cases, providing information online will fulfil this requirement although it is important that hard copies are made available for parents without access to the internet, and that these are sent to parents if they request them. The regulations correctly state that parents must also be made aware that the resources are available.

7 Have you any other comments on either of the draft Independent School Regulations?

No.

Section 3 The Education (Non-Maintained Special Schools) (England) Regulations

8 The regulations propose to introduce a right of appeal to the First-tier Tribunal against a decision by the Secretary of State to withdraw approval of a non-maintained special school or not to approve a change in the arrangements in relation to such a school. Currently schools can only challenge a decision by the Secretary of State by seeking judicial review we felt that natural justice should allow for a formal appeal process. Do you agree with this proposal?

Agree

Disagree

Not sure

We agree with the introduction of a first tier tribunal for schools. We welcome the new powers granted under the Education and Skills Act 2008 which, from September 2010, will enable the DCSF to apply to a Justice of the Peace for full or partial closure of schools throughout the appeal process where approval has been removed on the grounds of serious welfare failings.

9 The draft regulations introduce a requirement that non-maintained special schools should comply with the Regulatory Reform (Fire Safety) Order 2005. Under the FSO, the responsible person must carry out a fire safety risk assessment and implement and maintain a fire management plan. This brings non-maintained special schools in line with maintained special schools and independent schools. Evidence suggests that this a technical amendment as non maintained special schools are already complying with this requirement. Do you agree with this requirement?

Agree

Disagree

Not sure

This is not an area of expertise for the NSPCC.

10 Our current thinking on governance is that we do not want to put additional burdens on schools. The draft regulations specify the minimum requirements but schools will have the opportunity to adopt their own

model provided they comply with the regulations, and of course, requirements imposed by the Charity Commission. Do you agree?

Agree

Disagree

Not sure

The key principle governing regulatory reform should be that children's welfare is paramount; this should not be compromised in any way by concerns about the extent of a school's regulatory responsibilities. The regulations should be rigorously enforced and schools should be encouraged and supported, wherever possible, to exceed the minimum requirements set out in the regulations.

11 The draft regulations introduce a requirement that non maintained special schools should have a formal complaints procedure. All non-maintained special schools which offer residential accommodation already have a complaints procedure and the vast majority of day schools also have a complaints procedure. Do you agree with this requirement?

Agree

Disagree

Not sure

It is right that Non Maintained Special Schools (NMSS) should also have a formal complaints process. The policies and procedures covering the complaints process should be consistent with Standard 7 of the NMS which establishes requirements for Residential Special Schools (RSS). It is extremely important that where complaints are related to child protection, the regulations should state that schools must have regard to the SCSRE guidance and to NMS 8 (Child Protection).

In general, there is a lack of consistency across the regulations and NMS in relation to complaints. For example, NMS 7 (Complaints) seems to have been designed mainly to cover complaints related to child protection, such as allegations made against school staff. However, the complaints section in paragraph 25 of the Non Maintained Special Schools regulations does not explicitly mention child protection and refers to a broader range of issues. These sections should be consistent and both should emphasise the child

protection aspects related to complaints.

The regulations should also state at 25 (b) that schools' complaints procedures should also be made available to parents and pupils on the school's website.

12 We also propose to remove the requirement on a non maintained special school to send a copy of the school prospectus to the Secretary of State on an annual basis. Do you agree with this proposal?

Agree

Disagree

Not sure

Yes. However, schools should, where possible, make this information available on their website, and be prepared to provide copies for inspection, if requested.

As a result of the Singleton Review two new provisions have been introduced:-

13 a) a. Requires that non-maintained special schools complete an annual review of their safeguarding policies and procedures, they are required to send a copy to the DCSF and placing local authority about those policies and procedures and about how their safeguarding duties have been discharged. Non maintained special schools are already required to have a child protection policy and procedures in place that are in accordance with local authority guidance and locally agreed interagency procedures as described in 'Safeguarding Children and Safer Recruitment' we do not therefore feel that this will be an increased burden. Do you agree?

Agree

Disagree

Not sure

We agree. Sharing the findings of annual reviews increases a school's accountability to their registering authority and is to be encouraged. We propose that schools should also be required to send a copy of this report to the LSCB and placing Local Authority.

13 b) b. Requires non-maintained special schools with residential accommodation to send copies of Ofsted welfare inspections to parents if requested to do so. We feel that schools will already be doing this and so will not be an increased burden. Do you agree?

Agree

Disagree

Not sure

The NSPCC agrees that parents should have access to welfare inspection reports, on request. We do not consider that this will place an undue administrative burden on schools.

Additional comments on the NMSS Regulations

The NSPCC welcomes the decision to bring the provision of sex education in NMSS into line with provision in maintained schools by making provision for children at primary level. We are concerned that deaf and disabled children are at a much greater risk of experiencing abuse and neglect and often are less able to make a disclosure about the abuse they have experienced. For this reason, we feel that high quality sex education is crucially important.

In Part 3 of the schedule, paragraph 29 (Information to be published by the governing body), the phrase ‘the school's safeguarding policies and procedures’ should be added.

We welcome the new duty on NMSS to have regard to policies and procedures developed by the LSCB in the area in which the school is situated.

In line with our comments in response to question 17 of this consultation, we would like further clarification of the rules around CRB checking of staff.

Section 4 National Minimum Standards for Boarding Schools and Residential Special Schools

14 a) Is it clear how the revised document applies to the two different types of schools (Boarding Schools and Residential Special Schools)?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not sure
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The three standards which are applicable to RSS only are clearly marked. The document also highlights clearly the additional requirements for RSS throughout the main standards. However, it may be helpful to list which standards contain additional requirements for RSS in the ‘how the standards work’ section, for ease of reference. It would also be helpful to highlight the three standards which are applicable to RSS only both on the main contents page and on the contents pages at the start of each section.

The layout of this document is far clearer than the existing minimum standards. Placing the ‘outcome’ box under the main heading for each standard makes the document easier to read as it shows clearly which main outcome refers to each standard. Setting the standards out on separate pages also makes the document more accessible.

14 b) Are the extra requirements for Residential Special Schools appropriate and necessary?

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Not sure
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Standard 21 (care planning) is an important area for RSS but this standard should reflect the fact that disabled children are particularly vulnerable to abuse and neglect.⁴

At 21.2 the list should include recognising each child's particular vulnerabilities to exploitation and abuse, as related to their condition.

Standard 22 (admission and leaving) should be amended at 22.3 to include whether the child is subject to a child protection plan or there have been previous child protection concerns.

Standard 35 (accommodation – adaptations for disabled children) is appropriate and clearly outlines the appropriate adaptations needed for disabled children in residential schools.

We consider that the additional requirement for RSS outlined in 13.21 (suitable arrangements exist for professional supervision of the Head) should also be made a requirement for Boarding schools.

Standard 7 of the NMS (at 7.8) states that only children in RSS should have access to an independent advocate if they wish to make a complaint. The NSPCC considers that children in all school settings should have access to school counselling and advocacy. The need for this is demonstrated by analysis of calls received by the ChildLine service, which show that many young people who attend independent schools contact the service to discuss personal experiences of bullying. However, we accept that at present, as this requirement does not apply to maintained day schools, introducing the requirement across all independent schools would create inconsistency. Nevertheless, due to the particular vulnerabilities of children living away from home, that the Standard should state that independent advocates should be made available in both residential special schools and boarding schools. We also recommend that every independent school provides accessible information and details about ChildLine so that a child or young person who is being abused can talk to someone in confidence.

15 a) Standards 4, 6, 10 (formerly RSS only standards) and Standards 38 & 39 (formerly Boarding only standards). Do you agree that the requirements of these standards are applicable to both boarding and residential special schools?

<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree	<input type="checkbox"/> Not sure
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⁴ Sullivan, P. and Knutson, J. (2000) Maltreatment and disabilities: A population-based epidemiological study. *Child Abuse and Neglect*, 24, 1257-1274.

In our view it is important that Standards 4, 6, 10, 38 and 39 are applicable to both boarding and residential special schools.

We welcome the requirements in Standard 4 (Consultation) being extended to RSS. To enable children to enjoy their right under Article 12 of the UN Convention on the Rights of the Child to have a say in matters that affect them, in accordance with their age and ability, schools need to make an effort to understand their views and concerns.⁵ Further, listening to the views and concerns of children has clear benefits in relation to safeguarding. As stated above, research shows that deaf and disabled children are more vulnerable to abuse and neglect and less able to tell others about their experiences.⁶ For this reason, creating a more open dialogue between children and school staff, which takes into account the child's preferred communication method, is extremely important.

In Standard 6 (Records – individual), 6.1 should be amended to include whether the child is subject to a child protection plan.

We welcome clarification of the requirement set out in Standard 10 (Absence of a child without authority) for staff in boarding schools and RSS to notify the Local Authority when children of compulsory school age are missing from education. It is important that this Standard is consistent with the *Statutory guidance on children who run away and go missing from home or care* (2009). We hope to see further clarification about the responsibilities of schools across the entire independent sector within the revised SCSRE guidance.

In Standard 38, section 38.5 should include a requirement to conduct enhanced CRB checks for any other adults living in the household. There should also be a requirement that the adult(s) responsible for the accommodation must ensure that visitors to the house do not have unsupervised contact with children.

15 b) Please comment on any benefits or problems you see in extending these standards to cover both school settings.

⁵ For more information on the UNCRC please see www.unicef.org/rightsite/index.html

⁶ NSPCC (2003) *"It doesn't happen to disabled children"* Report of the National Working Group on Child Protection and Disability London: NSPCC; Sullivan, P and Knutson, J (1998) 'The association between child maltreatment and disabilities in hospital-based epidemiological study' in *Child Abuse and Neglect*, 22, pp. 271-288.

Providing a core set of standards common to both boarding schools and RSS reduces complexity. This will make it easier for schools and inspectorates to understand a school's key responsibilities.

16 a) Is the addition of links to further guidance and legislation at the beginning of each section useful?

Yes

No

Not sure

Yes.

16 b) Is there any other guidance that you would find useful to have included?

Yes

No

Not sure

At Standard 8 on page 23, the 'further guidance' section should refer schools to the *Working Together to Safeguard Children* statutory guidance (2006) – which is currently being revised - along with the *What to do if you're worried a child is being abused* guidance (2006).

Schools working to develop policies and procedures relating to young people who are absent without authority may find it useful to refer to the *Statutory guidance on children who run away and go missing from home or care* (2009).

17 Would you be in favour of bringing the vetting requirements for boarding/residential staff in line with staff working in day provision? This would mean that the CRB check could be completed *after* appointment in exceptional cases, but that all other checks must be completed *before* appointment. If yes, please explain why.

Yes

No

Not sure

We consider that all individuals who apply to work with children and young people (including permanent staff, supply staff and proprietors) should have completed an enhanced CRB check before they are allowed to begin work. Introducing the same requirements for all members of school staff, rather than distinguishing between staff working in residential and day schools, would reduce the potential for misunderstanding across different school settings and inspectorates. Vetting requirements for staff working in residential settings provision should therefore be brought into line with current rules governing staff in day provision.

Currently, rules vary in different settings in relation to whether CRB checks should be completed prior to a person's appointment or before they are allowed to take up a post. Although we believe that this variation should not continue, the current distinctions should be better highlighted and defined throughout the documents to reduce confusion about the rules which are currently in place. Also, the justification for the exemptions set out at Part 1 of Schedule 4 (6) should be more clearly outlined.

NMS 11 states that all schools must have regard to the SCSRE guidance, which is soon to be revised, to incorporate changes resulting from the new Vetting and Barring Scheme. The NSPCC will provide more detailed comments on this issue when we respond to the consultation on the updated SCSRE

guidance. Although changes to vetting and barring will be covered in the SCSRE guidance, the NMS should make reference to legal responsibilities to ensure staff members are registered with the Independent Safeguarding Authority (ISA).

18 a) What impact would the removal of the requirement to have the CRB completed *before* starting work have on the safety and welfare of children living in the boarding/residential provision?

High impact Medium impact Low Impact
 No impact at all

In our view the completion of full CRB checks prior to an employee commencing work with children and young people is an extremely important tool for keeping children safe in school. CRB checks ensure that no-one who has been convicted, cautioned for offences against children or about whom there are child protection concerns are employed in any capacity to work with them, in either a paid or voluntary capacity. We cannot support removal of the requirement to complete CRB checks before an individual starts work.

Alongside CRB checks, independent schools must also maintain a culture of vigilance about risks to children and a clear understanding about appropriate interaction with children, challenging unacceptable behaviour, providing examples of good conduct and ensuring children and young people know where to turn if they have problems or are being abused.

18 b) The current requirement for day provision is that staff have extra supervision if they start work before their CRB check is received - would such extra supervision be feasible in the boarding/residential?

Yes No Not sure

CRB checks should be completed prior to an employee taking up a post working with children and young people. However, if a person begins work without the completion of a CRB check, satisfactory arrangements must be in place to ensure the individual does not have unsupervised contact with children.

19 We would welcome views and comments on any other aspects of the revised National Minimum Standards.

The need for independent schools to arrange for annual independent scrutiny of their safeguarding arrangements is not adequately reflected in the NMS. This requirement is outlined on pages 2-3 of the draft Education (Independent School Standards) Regulations 2010. A reference to this requirement should also be made within the 'Leadership and Management' section.

On pages 21 and 92 of the NMS, the document refers to the 'local social services authority.' This should be replaced with the term 'Local Authority Children's Services' to bring this up to date with changes arising from the Children Act 2004.

The following should be added to Standard 8: 'The school is aware of any child for whom there have been previous child protection concerns and contributes to inter-agency working where there are professional concerns about their welfare.'

Standard 8 should state that Headteachers should have regard to the rules set out in the *Working Together* statutory guidance which outlines the circumstances in which allegations of abuse should be reported to the Local Authority Designated Officer (as outlined in appendix 5 of the *Working Together to Safeguard Children* guidance). Compliance with these rules should be rigorously assessed through inspection.

Standard 8 should state that school staff should be familiar with and have regard to the 'What to do if you're worried a child is being abused' guidance (2006). The NSPCC looks forward to contributing to the consultation on the revised Safeguarding Children and Safer Recruitment guidance which is the key document referenced in this section.

Standard 7 (Complaints) does not clearly outline which types of complaint the standard is referring to. Parents and children may wish to complain about a wide range of education and social care issues, but this standard refers predominantly to complaints related to child protection. Furthermore, it is important that where Standard 7 refers to child protection concerns, it should clearly refer schools to the policies and procedures outlined in Standard 8 (Child Protection). Although we welcome the emphasis on enabling children to complain, the standard also goes on to discuss the rights of parents and carers; thus it would make sense to call the standard 'Parents and children know how to make a complaint, and complaints are addressed without delay and resolved satisfactorily.'

Standard 9 (Anti-Bullying) should state that schools should have regard to the government's Safe to Learn suite of guidance. The NMS should also state more explicitly that schools should keep systematic records of bullying incidents, including bullying incidents by type, such as disablist, racist, sexual, sexist, transphobic, homophobic bullying and cyberbullying. This will help schools to respond to trends in bullying and also to monitor the effectiveness of their anti-bullying policy.

Standard 9 should also stress the need for a 'whole school approach' to developing anti-bullying initiatives. At 9.1 the standard should read 'Where possible, pupils, teachers, support staff, parents and governors should contribute to the development of the policy.' These groups should also be involved in any reviews of the anti-bullying policies.

The emphasis in 9.6 on working to change the behaviour of bullies and support the victims of bullying is welcome. However, the NSPCC considers that this should be extended to include work with bystanders.⁷ We support the inclusion of the need for staff training to raise awareness of bullying.

In section 14.13, the requirement 'recognising and working with children who are vulnerable to abuse' should be added.

Standard 11 (at 11.4) uses the phrase 'verifiable enhanced CRB.' This phrase needs to be clearly defined as the meaning is not currently clear.

The requirements set out in Standard 16 (Relationship between staff and children) may be difficult to inspect. More thought needs to be given to how outcomes in these areas could be outlined and quantified. We should make recommendations ourselves on this.

Standard 19 (Contact with parents/carers) should include a clarification of whether children are allowed to use personal mobile phones and laptops to maintain contact with parents and carers.

Standard 20 (Behaviour Management) states that the school's approach should be consistent with current government guidance on approved methods of physical intervention. The NSPCC has made representations to the DCSF that the existing non-statutory guidance to schools on the use of force should be substantially strengthened to take account of key children's rights principles. In particular schools must ensure that the use of force should never constitute torture, cruel, inhuman or degrading treatment or punishment; that children and young people must have meaningful opportunities to express their views and to have these taken into account in the development and evaluation of school policies about use of force; that force is not used in a discriminatory way; and that children receive information about the mechanisms available to them to complain if they feel that they have been treated unfairly or their rights have been infringed.

Section 20.4 should be strengthened by removing the phrase 'as appropriate.'

In Standard 23.2 (Part of physical, emotional and mental health needs), the NSPCC considers that the phrase 'protecting oneself from prejudice, bullying and abuse' is not helpful. This is because the phrase implies that the child has responsibility for their own protection. It would be better to say 'protection from prejudice, bullying and abuse.'

In Standard 33 (Leisure and Activities), 33.17 should include the requirement for staff conducting the activities to have an enhanced CRB check.

The glossary should define what it meant by the term 'allegation' in this context. This should reflect the definition used in the *Working Together* guidance which refers to allegations made that an adult has:

- behaved in a way that has harmed, or may have harmed a child;
- possibly committed a criminal offence against, or related to a child; or
- behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.

For further information please contact Kate Fitch, Acting Policy Advisor (Safeguarding) kfitch@nspcc.org.uk or 0207 825 1301.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply X

Here at the Department for Children, Schools and Families we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

X Yes No

All DCSF public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DCSF consultations are conducted, please contact Donna Harrison, DCSF Consultation Co-ordinator, tel: 01928 794304 / email: donna.harrison@dcsf.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 11 March 2010

Consultation responses can be completed online at www.dcsf.gov.uk/consultations by emailing NMSandRegs.CONULTATION@dcsf.gsi.gov.uk

or by downloading a response form which should be completed and sent to:

Consultation Response
Independent Schools and Schools Organisation Division
Department for Children, Schools and Families
Mowden Hall
Staindrop Road
Darlington
DL3 9BG