

**Department for Education**  
**Keeping children safe in education**  
**4 March 2022**

1. The NASUWT welcomes the opportunity to contribute to the Department for Education (DfE) consultation on changes to its statutory guidance for schools and colleges on safeguarding and promoting the welfare of children, *Keeping children safe in education* (KCSIE).
2. NASUWT - The Teachers' Union - represents teachers and headteachers across the United Kingdom.

**SPECIFIC COMMENTS**

**Section 1 – Summary of the guidance**

3. While the NASUWT cannot identify any reason why the provisions placed on these providers would be problematic, it is important to keep their impact under review. The Union will monitor this through engagement with members who work in these settings.

**Section 2 – Part one: Safeguarding information for all staff**

4. The NASUWT believes the additional information added to KCSIE on children potentially not being ready or not knowing how to tell someone they are being abused, exploited or neglected is a helpful addition. Given that part one of KCSIE is focused on what school and college staff should

know and do, providing additional information within statutory guidance on potential situations that may arise within establishments is welcome.

5. While it is helpful that additional advice has been added into part one, the NASUWT notes that some issues, raised in the Union's previous consultation responses, remain unaddressed. Notably, the guidance sets out that concerns about a child's welfare should be referred to local authority children's social care, and outlines the information that should be received by the referrer from a local authority social worker. The same section states that the referrer should follow up if this information is not forthcoming. While this is an understandable expectation, there is a lack of detail over the expected process this should take. It is unreasonable to assume teachers have the capacity to make repeated follow-ups should this information remain outstanding, and furthermore, there is no detail as to the next steps the referrer should take if they do not receive any response from the local authority.
6. In part one, and throughout the guidance, there are regular references and referrals to the Working Together to Safeguard Children statutory guidance. The NASUWT recognises this as an appropriate referral, and supports the principles of multi-agency working.
7. However, the Union has significant concerns over the effectiveness of current arrangements for multi-agency working, which is highly variable across different local authority areas and, in many cases, falls short of acceptable standards. This is in no small part due to systems and structures that were in place prior to the taking of office by the Coalition Government in May 2010, which supported and sustained impactful multi-agency working, having been dismantled and not effectively replaced. The NASUWT has raised these concerns in previous consultation responses and in our wider communications with the DfE and other government departments.

### **Section 3 – Part two: The management of safeguarding**

8. While the NASUWT can see the rationale for including additional information on the Human Rights Act 1998, the Equality Act 2010 and the Public Sector Equality Duty (PSED), the Union remains concerned that the guidance on these duties referred to in KCSIE does not provide particularly helpful support to schools in undertaking their legal obligations. The Union therefore asserts that the guidance referred to from KCSIE, as well as the wider support offered to schools in discharging the requirements of these legal duties, should be reviewed. The NASUWT would welcome the opportunity to engage further with the DfE on improvements that could be made to the guidance and support for schools with regard to these legal duties.
9. The NASUWT has previously called for the explicit requirement for governors and trustees to undertake dedicated safeguarding training. Therefore, we believe this addition has the potential to ensure all school governors and trustees are trained in safeguarding issues, as opposed to the disparity between schools which have this in place already and those which do not.
10. The issue remains over the quality of this training, as well as the lack of standardisation when schools are expected to source or develop their own training programmes for governors and trustees.
11. This question over the quality and content of training links to a concern raised previously by the NASUWT; that several iterations of KCSIE has set out the requirement for 'appropriate training' to be provided to all staff in schools and educational settings. Yet there still remains no further detail in the guidance on how this training can be standardised across all settings to ensure consistency and effectiveness. It seems unreasonable for schools to have to source this training on an individual basis as opposed to a national provision, especially given the nature of the issues the training is expected to cover.

12. The NASUWT's concerns over the potential inconsistency of training also impact on the ability to have a whole-school approach to safeguarding. If training varies between settings, and between individuals and roles within a school, this can negatively impact on a whole-school approach.
13. The NASUWT agrees that a setting's policies do play an important role in nurturing a whole-school/college approach. However, the Union asserts that for these to be meaningful and foster a culture that spans the whole school, policies need to be developed and reviewed with all stakeholders. This includes staff, parents and governors.
14. Later in the guidance, in part three, a whole-school approach is reiterated in relation to ongoing vigilance, related to school and college leaders creating the right culture that fosters an environment where all staff feel comfortable to discuss matters related to the safeguarding of children. The NASUWT knows from our member engagement activities that this is not the case in some educational establishments. In some schools and colleges, a hierarchical system exists which will inevitably lead to some employees – for example, Early Career Teachers (ECTs) or support staff – feeling unable to discuss issues of concern with more senior staff members.
15. The NASUWT believes that the onus is on the DfE to set out clear guidance on how schools should work to develop a culture that allows ongoing vigilance to be a natural part of the working environment.
16. The NASUWT sees the merit in including advice and guidance on remote learning in the context of safeguarding and KCSIE. However, the NASUWT understands from some of its members that there have been instances where schools are not always fully aware of the nature of the risks, which can lead to the implementation of policies and practices that do not take adequate account of these risks. The NASUWT, therefore,

believes there is a clear need for more robust and detailed guidance on remote learning with relation to safeguarding and KCSIE.

17. The guidance sets out that online safety should be considered whilst planning the curriculum but does not make explicit recommendations as to how this could be achieved. While the introduction of statutory requirements in relation to relationships and sex education (RSE), health education and accompanying guidance may be helpful in this respect, it will be important for the DfE to make clearer its expectations in this respect, given that schools are under a legal obligation to have regard to the important issues set out in KCSIE. The NASUWT has raised this concern in previous consultation responses, so it is disappointing that it remains unaddressed.
18. Looking at the expectations of the availability of the DSL, or deputy, it is unclear why the guidance states it is generally expected they are available in person. Availability via phone and other digital means are noted as being used in exceptional circumstances. The NASUWT would welcome clarification on the reason why the department feels that the role can only truly be fulfilled by someone who is always available – except in exceptional circumstances – in person.
19. During school closures and remote or blended learning as a result of the pandemic, DSLs must have, at least in part, fulfilled the duties of their role through digital communication. It is unclear why being available through other means, as well as face-to-face, is therefore seen as substandard when DSLs will no doubt have shown it can, and has, worked.
20. While the NASUWT sees the importance of setting out the responsibilities of the role, the guidance seeks to simply list these, rather than take into account how the requirements will impact on the individual. The NASUWT has raised concerns over this issue in its previous KCSIE consultation responses; and yet it remains unaddressed.

21. Furthermore, the NASUWT is advocating that those undertaking the role of DSL are remunerated appropriately. The NASUWT would welcome the opportunity to engage directly with the DfE on this issue to set out how this might be addressed.
22. In addition, the NASUWT believes that it could be helpful for schools to be provided with an audit framework to help them determine the demands of the DSL role within their setting. It is understandable that some DSL roles will be less time and resource intensive than others, dependent on many factors including the size of the setting, the number of pupils within the school or college and the demands that have been made of the role historically. The aim would be to ensure that DSLs have enough time to undertake what is an extremely challenging role and are able to benefit from their contractual entitlement to a reasonable work/life balance.
23. If schools and colleges had a standard audit framework to allow them to make this assessment, this would enable settings to better understand the time that is realistically required by the DSL to undertake the role effectively, while not having a detrimental impact on their health and wellbeing.
24. Given that the guidance states that any deputies should be trained to the same standard as the DSL, an allocation of leadership and management time also needs to be set for this role.

#### **Section 4 – Part three: Safer recruitment**

25. Part three, paragraph 218, details what should be included in a reference as part of safer recruitment practices. It states they should not include information about allegations which are unsubstantiated, unfounded, false, or malicious. However, it is unclear as to why the wording which clarified that a history of repeated concerns or allegations, which have all been found to be false, unsubstantiated or malicious, and should not be included in any reference, is still not stated explicitly here, despite

previous representations from the NASUWT about the importance of this wording. The inclusion of any unsubstantiated allegation in a reference could significantly impact on the careers and future employment prospects of entirely innocent individuals.

26. Clarification that references should not include any repeated concerns or allegations which have all been found to be false, unfounded, unsubstantiated or malicious is provided in paragraph 413, which is in part four of KCSIE. It is unclear why the clarification of repeated concerns is made in this section, but not in part three on safer recruitment. The NASUWT is therefore clear that the wording on repeated concerns or allegations should also be included in paragraph 218.
27. The NASUWT believes the suggestion that schools and colleges should consider carrying out an online search (including social media) on shortlisted candidates needs further exploration before this is included in KCSIE. For this to be justifiable and meet the obligations a school has under the Equality Act 2010 and the PSED, the use of online searches would need to be contextualised, addressing points such as what is searched for, how it is searched for and how the information gathered is used. A very strict list of criteria would need to be developed to ensure schools are not inadvertently or knowingly penalising candidates unfairly based on indistinct standards of what is and is not acceptable in their online presence.

#### **Section 5 – Part four: Allegations of abuse made against teachers and other staff**

28. The NASUWT is monitoring developments with regards to how schools are choosing to respond to the amendment to KCISE in part 4, section 2 on low-level concerns. The Union has been contacted by a number of members working in settings that are drawing up Codes of Conduct to address low-level concerns. Based on previous experiences of Codes of Conduct, the Union can foresee a potential risk that these codes may be

constructed in a way that casts suspicion on behaviour that does not warrant it.

29. Furthermore, schools may seek advice from external consultants on how to implement these provisions of the revised guidance. The NASUWT remains unclear as to whether this will be a helpful source of advice or not, given that the credentials and expertise of those providing the training might not always be suitable.
30. The previously mentioned issue of training is further amplified in relation to low-level concerns. It is not clear currently that the training being provided to DSLs, to enable them to make good and equitable across all settings judgements about when a concern is low level and when it is not, is always fit for purpose. This is another example of where common training criteria would offer significant benefits.
31. Treatment of low-level concerns should take place within an open and transparent culture. The NASUWT is not confident about the extent to which this is happening in practice. The NASUWT would welcome clarifications from the DfE on what protections are in place to promote this culture.
32. Notwithstanding the issues raised above, the Union recognises that the distinction between high and low-level concerns may address previous concerns over the boundaries between the two. The NASUWT would welcome the opportunity to engage further with the DfE on this area of KCSIE, particularly once the reforms have bedded into the system more, and feedback from settings has been gathered via this consultation process.
33. With regard to part four of KCSIE, Whilst acknowledging the positive steps taken to clarify the situation for supply teachers in regards to safeguarding issues, the NASUWT still has genuine concerns about the application of



KCSIE by school leaders and DSLs when situations occur which involve supply teachers, particularly those working through a supply agency.

34. The Union has anecdotal evidence from supply teachers that the clarification in KCSIE has failed to change the culture and practice which sees some supply teachers having assignments terminated and being unable to secure further placements when safeguarding allegations are made. This is in spite of the statutory basis of KCSIE.
35. With this in mind, the Union would ask the DfE to detail how it gathers information and monitors such situations to ensure that supply teachers are not subject to any such detriment, particularly given the precarious and intermittent nature of supply teaching.
36. The NASUWT welcomes the clarifications made in the draft guidance to address the specific issues facing supply teachers in relation to safeguarding issues. The Union has made its position clear in the past that all those employed in schools, whether full-time, part-time, or an agency worker, should be treated equally in respect of any safeguarding allegations made against them. The updated guidance takes this into account and promotes equity for all staff, including supply teachers.
37. The NASUWT would draw the DfE's attention to further matters that should be addressed in relation to safeguarding and the specific circumstances of supply teachers. In particular, NASUWT supply teachers often report that when undertaking an assignment at a school, they are often given very little or no time within the school day to read and become familiar with key safeguarding arrangements in the settings to which they are deployed, or to be briefed accordingly by appropriate staff. In addition, supply teachers are often denied access to central school databases that contain important safeguarding information to which directly employed staff have access. The Union maintains that this is unacceptable and that specific requirements on settings in this respect should be set out in KCSIE.

38. Further, supply teachers typically work for a number of different agencies. It can often be the case that agencies insist on supply teachers accessing their own safeguarding training despite the fact that many will have received training from other agencies that addresses similar issues and is of a comparable standard. Given that supply teachers are often required to pay for such training, they are frequently subject to excessive and avoidable additional expense. The introduction by the DfE of a common training programme for supply teachers would avoid the unnecessary duplication of training, reduce costs and give agencies confidence that the supply teachers they engage have accessed training that meets common, DfE-set standards. The NASUWT would welcome the opportunity to engage further with the DfE on ways in which such a scheme could be implemented.
39. In the absence of this, the Union believes that the DfE should, at the very least, be collecting data to assess the level and consistency of the safeguarding training provided to schools, including that provided to supply teachers.
40. The NASUWT would not support nor advocate including substantiated low-level concerns on an employment reference. The guidance on low-level concerns makes clear that they involve incidents that do not meet the harms threshold and should not give rise, in and of themselves, to action against any individual member of staff. KCSIE requires schools and other educational settings to develop open and collaborative cultures in which all staff recognise their roles in protecting the safety and wellbeing of students. The inclusion of substantiated low-level concerns in employment references would serve to militate against the development of such cultures and could impact adversely and unfairly on the future employment prospects of the staff concerned.

## **Section 6 – Part five: Child-on-child sexual violence and sexual harassment**

41. While the NASUWT currently is not aware of any evidence which suggests the incorporation of the standalone sexual violence and sexual harassment between children in schools and colleges advice into KCSIE is an issue, the Union will continue to monitor the impact of this change.

## **Section 7 – Expanding our evidence base**

42. The NASUWT recognises the importance of equipping school and college staff, in particular the DSL, with guidance on managing reports of sharing nudes and semi nudes. However, the NASUWT has concerns over the section 2.10(a); Viewing the imagery. While the guidance states in most cases, images or videos should not be viewed, the NASUWT would argue that there are no cases where the images or videos should be viewed.
43. The guidance states that the images can be viewed if it is the only way to make a decision about whether to involve other agencies because it is not possible to establish the facts from any child or young person involved. The NASUWT asserts that it is not the DSL's role to ultimately 'establish the facts' over the incident; while a DSL performs an important and specialised role, they are not trained investigators. This is the role of the police and other appropriate agencies.
44. This would also be true for the recommendation that the image can be viewed if it is necessary to report it to a website, app or suitable reporting agency (such as the Internet Watch Foundation) to have it taken down, or to support the child or young person or parent or carer in making a report. Other agencies including the police would be better placed and trained in having the image removed from online channels. With regard to supporting the child or young person or parent or carer in making a report, the NASUWT does not see any situation where this support could only be offered if the image or video had been viewed.

Dr Patrick Roach  
**General Secretary**

For further information on the Union's response contact:

Sarah Cull  
Principal Official (Education)  
NASUWT  
Hillscourt Education Centre  
Rose Hill  
Rednal  
Birmingham  
B45 8RS  
0121 453 6150  
[www.nasuwt.org.uk](http://www.nasuwt.org.uk)  
[nasuwt@mail.nasuwt.org.uk](mailto:nasuwt@mail.nasuwt.org.uk)