

Draft Regulations laid before Parliament under section 66(3) of the Children Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

CHILDREN AND YOUNG PERSONS, ENGLAND

**The Child Safeguarding Practice Review and
Relevant Agency (England) Regulations 2018**

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16B(1) and (6), 16E(3) and 16F(6) of the Children Act 2004⁽¹⁾.

In accordance with section 66(3) of that Act a draft of these Regulations has been laid before Parliament and approved by a resolution of each House of Parliament⁽²⁾.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018 and come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

“the Act” means the Children Act 2004; and

“the Panel” means the Child Safeguarding Practice Review Panel⁽³⁾.

(1) 2004 c. 31. Section 12(B)(1)(b), 16B(6), 16E(3) and 16F(6) of the Children Act 2004 (c.31) (“the Act”) were inserted by sections 13, 15, 17 and 29 of the Children and Social Work Act 2017 (“the 2017 Act”) (c.16).
(2) Section 66(3) of the Children Act 2004 was amended by section 194 (1) and (7) of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) and section 29 of the 2017 Act.
(3) Section 16A of the Act requires the Secretary of State to establish a Child Safeguarding Practice Review Panel.

PART 2

National Reviews

National review criteria

3. The criteria to be taken into account by the Panel for the purpose of section 16B(1) of the Act include whether the case in question—

- (a) highlights or may highlight improvements needed to safeguard and promote the welfare of children, including where those improvements have been previously identified;
- (b) raises or may raise issues requiring legislative change or changes to guidance issued under or further to any enactment;
- (c) highlights or may highlight recurrent themes in the safeguarding and promotion of the welfare of children.

Eligibility and selection process for appointment as a reviewer

4.—(1) The Panel must set up a pool of potential reviewers to conduct reviews of serious child safeguarding cases under section 16B(2) of the Act.

(2) The Panel must ensure that the pool of potential reviewers be made publicly available by such means as it considers appropriate.

(3) Where the Panel considers it appropriate for a serious child safeguarding case to be reviewed they must, subject to paragraph (4), select one or more persons from the pool of potential reviewers to conduct the review.

(4) If the Panel considers that there are no potential reviewers in the pool with availability or suitable experience for the review, they may select a person as a potential reviewer who is not in the pool.

(5) Where the Panel has selected a person under paragraphs (3) or (4) they may recommend that reviewer to the Secretary of State who will confirm the appointment.

Removal of a reviewer

5.—(1) The Panel may remove a person from the pool of potential reviewers at any time.

(2) Where, following a reviewer's appointment but prior to a report or information relating to improvements being published, the Panel determines that a reviewer should be removed from a review, the Secretary of State must remove the reviewer from the review.

(3) Where the Secretary of State removes a reviewer from a review prior to a review being completed, the Panel must consider appointing another reviewer, in accordance with regulation 4(3) and (4).

Payments of remuneration or expenses to a reviewer

6. The Secretary of State may pay remuneration or expenses to a reviewer.

Panel's supervisory powers

7.—(1) The Panel must monitor the time being taken to conduct a review and the quality of the review at regular intervals during the course of the review.

(2) The Panel may, for the purpose of assessing the progress and quality of a review, request specified information or a draft report from the reviewer.

- (3) Such a request must be made in writing.

Form and content of a report

8. The report must include—
- (a) a summary of any improvements being recommended to the safeguarding partners, or others, to safeguard and promote the welfare of children; and
 - (b) an analysis of any systemic or underlying reasons why actions were taken or not taken in respect of matters covered by the report.

Provision of the report and information to Secretary of State

9.—(1) The Panel must provide a copy of the report to the Secretary of State no later than 7 days prior to the date of publication of that report.

(2) Where the Panel decide, further to section 16B(5) of the Act, not to publish the report but only to publish information relating to improvements to be made, they must provide a copy of the report and the information to the Secretary of State, no later than 7 days prior to the date of publication of that information.

Publication of the report and information

10. Where the Panel publishes a report, or information relating to improvements to be made, the Panel must ensure that the report or information published remains publicly available for a minimum of three years following publication.

PART 3

Local Reviews

Local review criteria

11. The criteria to be taken into account by the safeguarding partners⁽⁴⁾ for the purpose of section 16F(1) of the Act include whether the case in question—

- (a) highlights or may highlight improvements needed to safeguard and promote the welfare of children, including where those improvements have been previously identified;
- (b) highlights or may highlight recurrent themes in the safeguarding and promotion of the welfare of children;
- (c) highlights or may highlight concerns regarding two or more agencies working together effectively to safeguard and promote the welfare of children;
- (d) is one which the Child Safeguarding Practice Review Panel have considered and concluded a local review may be more appropriate.

Appointment of a reviewer

12. The safeguarding partners must appoint a reviewer to conduct a local review.

(4) See section 16E(3) of the Act under which a “safeguarding partner” in relation to a local authority area in England is defined as: “(a) a local authority; (b) a clinical commissioning group for an area any part of which falls within the local authority area; (c) the chief officer of police for a police area any part of which falls within the local authority area.”

Removal of a reviewer

13. The safeguarding partners may remove a reviewer from a review at any time prior to the report of the review, or information relating to improvements, being published.

Procedure for a review

14.—(1) The safeguarding partners must monitor the time being taken to conduct a review and the quality of the review at regular intervals during the course of the review.

(2) The safeguarding partners may, for the purpose of assessing the progress and quality of a review, request specified information or a draft report from the reviewer.

(3) Such a request must be made in writing.

Form and content of report

15. The report must include—

- (a) a summary of any recommended improvements to be made by persons in the area to safeguard and promote the welfare of children; and
- (b) an analysis of the systemic or underlying reasons why actions were taken or not taken in respect of matters covered by the report.

Provision of a report and information to the Secretary of State and the Panel

16.—(1) The safeguarding partners must provide a copy of the report to the Secretary of State and the Panel no later than 7 days prior to the date of publication of that report.

(2) Where the safeguarding partners decide, further to section 16F(5) of the Act, not to publish the report but only to publish information relating to improvements to be made, they must provide a copy of the report and the information to the Secretary of State and the Panel, no later than 7 days prior to the date of publication of that information.

Publication of the report and information

17. Where the safeguarding partners publish a report or information relating to improvements to be made following the review, the safeguarding partners must ensure that the report or information published remains publicly available for a minimum of one year following publication.

PART 4

Relevant Agencies

Relevant Agencies

18. The agencies listed in the Schedule are relevant agencies for the purposes of section 16E(3) of the Act, to the extent that their activities are carried out in England.

Date

Name
Parliamentary Under Secretary of State
Department for Education

SCHEDULE

Regulation 18

RELEVANT AGENCIES

Education and childcare

1. The proprietor of an Academy school within the meaning given by section 1A of the Academies Act 2010**(5)**.
2. The proprietor of a 16-19 Academy within the meaning given by section 1B of the Academies Act 2010.
3. The proprietor of an alternative provision Academy within the meaning given by section 1C of the Academies Act 2010.
4. The governing body of a maintained school within the meaning given by section 20(7) of the School Standards and Framework Act 1998**(6)**.
5. The governing body of a maintained nursery school within the meaning given by section 22(9) of the School Standards and Framework Act 1998.
6. The governing body of a pupil referral unit within the meaning given by section 19(2) of the Education Act 1996**(7)**.
7. The proprietor of an independent educational institution registered under section 95(1) of the Education and Skills Act 2008**(8)**.
8. The proprietor of a school approved under section 342 of the Education Act 1996**(9)**.
9. The proprietor of a Special post-16 institution within the meaning given by section 83(2) of the Children and Families Act 2014**(10)**.
10. The governing body of an institution within the further education sector within the meaning given by section 91(3) of the Further and Higher Education Act 1992**(11)**.
11. The governing body of an English higher education provider within the meaning of section 83 of the Higher Education and Research Act 2017**(12)**.
12. Any provider of education or training—
 - (a) to which Chapter 3 of Part 8 of the Education and Inspections Act 2006**(13)**, and

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- (5) [2010 c.32](#). Sections 1A to 1C were inserted by Education Act [2011 \(c. 21\)](#), section 53(7). Proprietors of Academies (Academy Schools, 16-19 Academies and Alternative Provision Academies) are Academy Trusts or Multi-Academy Trusts.
 - (6) [1998 c.31](#). In relation to paragraphs 4 and 5, section 19 of the Education Act [2002 \(c.32\)](#) sets out the requirement for each maintained school to have a governing body. Section 39(1) of the Education Act 2002 provides that for this purpose, a “maintained school” includes a “maintained nursery school”.
 - (7) [1996 c.56](#). In section 19(2) the words “local authority” were substituted by Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order [2010/1158](#), Schedule 2(1), paragraph 7(2).
 - (8) [2008 c.25](#). Section 579 of the Education Act 1996 sets out that a “proprietor”, in relation to a school or a 16 to 19 Academy, means the person or body of persons responsible for the management of the school or Academy (so that, in relation to a community, foundation or voluntary or community or foundation special school, or a maintained nursery school, it means the governing body).
 - (9) Section 342 was substituted by the School Standards and Framework Act 1998, Schedule 30, paragraph 82. The words: “appropriate national authority” in section 342(1) were substituted by the Education and Skills Act 2008, section 142(3)(a); “or an Academy school” in section 342(1)(b) were inserted by the Children and Families Act [2014 \(c. 6\)](#), Schedule 3(1), paragraph 37; “appropriate national authority” in section 342(5) substituted by the Education and Skills Act 2008, section 142(4).
 - (10) [2014 c.6](#).
 - (11) [1992 c.13](#). Section 91(3)(c) was added by the Apprenticeships, Skills, Children and Learning Act [2009 \(c. 22\)](#), Schedule 8, paragraph 13(2). Subsection 3A was added by the Apprenticeships, Skills, Children and Learning Act 2009, Schedule 8, paragraph 13(3).
 - (12) [2017 c.29](#).
 - (13) [2006 c.40](#). See section 123. In section 123 the words “Secretary of State” were substituted by the Education Act 2011, Schedule 16, paragraph 30(2). In section 123(1)(b)(c) and (g) the words “or the Chief Executive” were repealed by the

(b) in respect of which funding is provided by, or under arrangements made by, the Secretary of State.

13. A person registered under Chapter 2, 2A, 3 or 3A of Part 3 of the Childcare Act 2006(14).

14. The provider of a children's centre within the meaning given by section 5A(4) of the Childcare Act 2006.(15)

Health and Social Care

15. The National Health Service Commissioning Board (known as NHS England) as established under section 1H(1) of the National Health Service Act 2006(16).

16. An NHS trust established under section 25 of the National Health Service Act 2006.

17. An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006(17).

18. The registered provider of an adoption support agency within the meaning given by section 8(1) of the Adoption and Children Act 2002(18).

19. The registered provider of a registered adoption society within the meaning given by section 2 of the Adoption and Children Act 2002(19).

20. A registered provider of a fostering agency within the meaning given by section 4 of the Care Standards Act 2000(20).

21. A registered provider of a children's homes within the meaning given by section 1 of the Care Standards Act 2000(21).

22. A registered provider of residential family centre within the meaning given by section 4(2) of the Care Standards Act 2000.

23. The registered provider of a residential holiday schemes for disabled children within the meaning given by regulation 2(1) of the Residential Holiday Schemes for Disabled Children (England) Regulations 2013/1394(22).

Local Government

24. District Councils within the meaning given by section 1(1) of the Local Government Act 1972(23).

Deregulation Act 2015 (c. 20), Schedule 14(2), paragraph 51. Section 123(1)(ba) was added by the Education Act 2011, Schedule 13, paragraph 16(6).

(14) 2006 c.21.

(15) Section 5A was added by the Apprenticeships, Skills, Children and Learning Act 2009, section 198.

(16) 2006 c.41. Section 1H was added by the Health and Social Care Act 2012 (c. 7), section 9(1).

(17) In section 30(1), the words "the function of which is to provide in accordance with this Chapter" were substituted by the Health and Social Care Act 2012 (c.7), section 159(1).

(18) 2002 c.38.

(19) A registered adoption society is also known as a voluntary adoption agency.

(20) 2000 c.14. Section 4 was added by the Children and Young Persons Act 2008 (c.23), section 4(1). Section 4(1) was omitted by the Deregulation Act 2015, section 93(1).

(21) Section 1(4A) was added by the Health and Social Care Act 2008 (c.14), Schedule 5(1), paragraph 2(3).

(22) The Residential Holiday Schemes for Disabled Children (England) Regulations 2013/1394 are made in exercise of powers conferred on the Secretary of State by the Care Standards Act 2000.

(23) 1972 c.70.

Criminal Justice

25. The Children and Family Court Advisory and Support Service (Cafcass) as established under section 11 of the Criminal Justice and Court Services Act 2000(24).

26. A governor of a prison in England (or, in the case of a contracted out prison, its director)

27. Providers of probation services as defined by section 3(6) of the Offender Management Act 2007(25).

28. The principal of a secure college.

29. The governor of a secure training centre (or, in the case of a contracted out secure training centre, its director).

30. The governor of a young offender institution (or, in the case of a contracted out young offender institution its director)(26).

31. Youth offending teams as established under section 39 of the Crime and Disorder Act 1998(27).

Police and Immigration

32. The British Transport Police as established under section 18(1) the Railways and Transport Safety Act 2003(28).

33. The Common Council of the City of London in its capacity as a police authority.

34. Port Police Forces as established under an order made under section 14 of the Harbours Act 1964(29), under Part 10 of the Port of London Act 1968(30), or under section 79 of the Harbours, Docks and Piers Clauses Act 1847 (c.27)(31).

35. Any person or body for whom the Secretary of State must make arrangements for ensuring the discharge of functions under section 55 of the Borders Citizenship and Immigration Act 2009(32).

Miscellaneous

36. Charities within the meaning given by section 1 of the Charities Act 2011(33).

37. Religious Organisations as set out in regulation 34 of, and Schedule 3 to, the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012(34).

38. Any person or body involved in the provision, supervision or oversight of sport or leisure.

(24) 2000 c.43.

(25) 2007 c.21.

(26) In relation to paragraphs 28 to 30, section 43 of the Prison Act 1952 (c.52) allows the Secretary of State to provide these places for the detention of young persons sentenced to detention for an offence or remanded to custody (or for the detention of a class of such persons). Section 43 was substituted by the Criminal Justice and Courts Act 2015 (c. 2), section 38(1). In section 43(4) the words “section 28” were substituted by the Deregulation Act 2015 (c. 20), section 84(3)(a) and “sections 5, 6(2) and (3), 12, 14, 19, and 28” were substituted by section 84(3)(b) of the Deregulation Act 2015.

(27) 1998 c.37.

(28) 2003 c.20.

(29) 1964 c.40. Section 14 of the Harbours Act (relating to England) was substituted by the Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006/1177, Schedule 1(1), paragraph 1.

(30) 1968 (c.xxxii). In section 156(2) the word ‘indictable’ in square brackets in each place it occurs was substituted by the Serious Organised Crime and Police Act 2005 (c.15), section 111, paragraphs 41(1) and (3).

(31) 1847 c.27.

(32) 2009 c.11.

(33) 2011 c.25.

(34) School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012 No. 8 are made in exercise of powers conferred on the Secretary of State by the School Standards and Framework Act 1998 and the Education Act 1996.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Further to sections 16A to 16Q of the Children Act 2004 inserted by the Children and Social Work Act 2017, these Regulations make provision relating to the functions of the Child Safeguarding Practice Review Panel (in connection with section 16B(1)) and local safeguarding partners (in connection with section 16F(1)). The safeguarding partners for each local authority area are the local authority, clinical commissioning group and chief officer of police. The Regulations also specify relevant agencies for the purposes of section 16E(3) of the Act.

Regulation 3 specifies the criteria to be taken into account by the Panel for the purpose of the Panel's functions, which are to identify serious child safeguarding cases in England which raise issues that are complex or of national importance, and where appropriate, to arrange for those cases to be reviewed.

Regulation 4 describes the eligibility and selection process for appointment as a reviewer, in particular, the Panel's duties regarding selection and appointment.

Regulation 5 describes the process of removal of a reviewer from a review (and what action the Panel and the Secretary of State must take in that regard).

Regulations 7 and 8 describe the Panel's supervisory powers in relation to a national review, and the form and content a review report must take.

Regulations 9 and 10 specify the Panel's duties regarding provision of the report to the Secretary of State and publication of the report.

Regulation 11 specifies the criteria to be taken into account by the safeguarding partners for a local authority area for the purpose of the safeguarding partners' functions to make arrangements to identify serious child safeguarding cases which raise issues of importance in relation to the area, and for those cases to be reviewed.

Regulation 13 specifies the timeframe in which the safeguarding partners may remove a reviewer from a local review.

Regulation 14 details the procedure for a local review, in particular regarding the duty on safeguarding partners to monitor the time being taken to conduct a review and the quality of that review.

Regulation 15 describes the form and content a local review report must take.

Regulations 16 and 17 specify the duties on the safeguarding partners regarding provision of the local review report to the Secretary of State and the Panel, and publication of the report.

The Schedule to these Regulations lists relevant agencies for the purposes of section 16E(3) which specifies that a relevant agency in relation to a local authority area in England means a person who is specified in regulations made by the Secretary of State and exercises a function in that area in relation to children. The relevant agencies list will be used by safeguarding partners in their function set out in section 16E(1) to make arrangements for the safeguarding partners and any relevant agencies that they consider appropriate to work together in exercising their functions, so far as the functions are exercised for the purpose of safeguarding and promoting the welfare of children in the area.

A full regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum will be available alongside this instrument on www.legislation.gov.uk

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018 No. 789*