

## **Unregistered Independent Schools and their duties to safeguard children**

*Anyone working directly with children has a duty to keep them safe. Understanding your responsibilities as an educator is part of your safeguarding remit and therefore the importance of understanding the expectations of the Department of Education is key. This document serves to promote awareness and contribute to the protection of children in your care.*

### **Registering your organisation with the Department for Education**

#### **1. When do you need to register?**

If your organisation is classified as an Independent Educational Institution (IEI), then you are required to register it with the Department for Education.

#### **2. What happens if I do not register my organisation?**

If you fail to register your organisation, then the proprietor of your organisation may face a criminal prosecution, with the sentence on conviction being imprisonment for a maximum of 51 weeks, a fine, or both. It is therefore important to understand which organisations are classified as an IEI, and so require registration.

#### **3. What is an Independent Educational Institution?**

Your organisation will be classed as an IEI in either of the following situations:

1. Your organisation is classed as an “independent school.” This requires your organisation to provide:
  - i) Full-time education;
  - ii) To five or more pupils of compulsory school age; or,
  - iii) To one or more pupils with an Education, Health and Care Plan (EHC Plan), with a statement of special educational needs, or a pupil who is “looked after” by the Local Authority.

It does not matter whether your organisation also provides education to pupils who are under or over compulsory school age. The key is that it provides full time education to five or more pupils of compulsory school age.

Your organisation must also not be maintained by the Local Education Authority, or be a special school maintained by the Local Authority.

Alternatively,

2. Your organisation must provide:
  - i) Part time education;
  - ii) To one or more pupils of compulsory school age; and,
  - i) Your organisation would be an independent school as detailed above, but for the fact that the education provided for the part-time student or students is part-time rather than full-time.

If your establishment falls outside the definitions given above, it cannot be registered as an independent school. However, the Local Authority will need to be satisfied that children of compulsory school age who are attending your organisation are receiving full-time education suitable to their age, ability, aptitude and any special educational needs they may have, including any provision being made in parallel to that in your establishment.

#### **4. What is full time education?**

There is no definition of full time education in the legislation; however, the Department for Education have stated they consider an institution to be providing full-time education if it is intended to provide, or does provide all, or substantially all, of a pupil's education.

Relevant factors in determining whether education is full-time include:

- a) the number of hours per week that is provided - including breaks and independent study time;
- b) the number of weeks in the academic term/year the education is provided;
- c) the time of day it is provided;
- d) whether the education provision in practice precludes the possibility that full-time education could be provided elsewhere.

Generally, they consider any institution that is operating during the day, for more than 18 hours per week, to be providing full-time education. This is because the education being provided is taking up the substantial part of the week in which it can be reasonably expected a pupil can be educated. This therefore indicates that the education provided is the main source of education for that child.

## 5. What is part time education?

“Part-time” education is defined as education provided to a pupil:

- a) where the pupil is under the age of 12 at the end of the academic year, for at least 12.5 hours a week, for at least 28 weeks; or,
- b) where the pupil is over the age of 12 at the end of the academic year, for at least 15 hours a week, for at least 28 weeks.

### Examples:

- i. An organisation provides full-time education to seven pupils. Six pupils are of compulsory school age and one is not of compulsory school age. None of the children have a statement of special educational needs.

*The organisation would need to be registered as it meets the definition of an independent school. This is regardless of the fact that one of the pupil's is not of compulsory school age.*

- ii. In the example above, say that the organisation only has four pupils of compulsory school age; however, one of the pupils had a statement of special educational needs. Would the organisation still need to be registered?

*In this situation, yes, the organisation would also still need to be registered as it meets the definition of an independent school. Although it only provides full time education to four pupils, one of the pupils has a statement of special educational needs, and as per the definition of an independent school, this means the school needs to be registered.*

- iii. Equally, in example 2, if the pupil which had a statement of special educational needs instead had an EHC plan, or was a Looked After Child, the organisation would also still need to be registered.
- iv. However, say the organisation is funded by the Local Authority. In this case, regardless of how many pupils attend the school full time, as the organisation is funded by the Local Authority, it cannot be registered as an independent school.
- v. Returning to the first example, say that the education provided to all the pupils was part time instead of full time. The part time education was given at the level of 13 hours over 29 weeks. The organisation is still not maintained by the Local Authority.

*In this case, the organisation would again be classified as an IEI and so requires registration. However, if the education was only provided for 10 hours a week, over 25 weeks, then the organisation would fall outside the second definition of an IEI and so would not require registration. Equally, if only one of the requirements for part time education was met e.g. the numbers of hours*

*per week, but not the number of weeks or vice versa, then this would also not need the definition of an IEl and so would not require registration.*

## 6. What are my safeguarding responsibilities?

Your organisation should have the following policies in place:

- Safeguarding policy (this link will take you to a sample policy)  
<https://www.nspcc.org.uk/preventing-abuse/safeguarding/writing-a-safeguarding-policy/>
- Whistle Blowing Policy
- Recruitment and selection policy statement

In addition, you should ensure that the members in your organisation have knowledge and understanding of the following safeguarding subject areas:

### ➤ **Designated Officer (LADO)**

The LADO deals with allegations made against people who work with children, whether this be in a paid or voluntary capacity. The City of Wolverhampton LADO is Paul Cooper:

[paul.cooper@wolverhampton.gov.uk](mailto:paul.cooper@wolverhampton.gov.uk)  
01902 550661

### ➤ **Child Protection Officer (Designated Safeguarding Lead)**

DfE guidance states that a member of the organisations senior leadership team will be identified to have lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority and working with other agencies.

Clear guidance on this role and expectations can be found at appendix 3 of the following document:

<https://www.education.gov.uk/consultations/downloadableDocs/Safeguarding%20Children%20Guidance.pdf>

### ➤ **Safer Recruitment**

You should ensure that recruitment to any post, whether that be paid or unpaid, full or part time, is done in such a way that promotes the safety and well-being of children and adults.

Guidance and a helpful checklist can be found at page 34 and appendix 4 of the above document.

➤ **Making a referral when you have a concern about the welfare of a child**

If a child is in immediate danger of serious harm or has been left alone, dial 999 and let the operator know that it is a possible child protection issue.

If the child is not in immediate danger of serious harm but you know or suspect that they are being abused or neglected, call Wolverhampton Multi-Agency Safeguarding Hub (MASH):

- Monday to Thursday 8:30am to 5pm, Friday 8:30am to 4:30pm on 01902 555392
- Outside of the above hours for emergencies on 01902 552999

If you suspect or believe a child is suffering or is likely to suffer Significant Harm, including any form of mistreatment or abuse, you should report your concerns.

You can report your concerns by phone or by completing a Wolverhampton Safeguarding Children Board Multi-Agency Referral Form (MARF).

The following link will provide further information regarding roles and responsibilities **and** a blank referral form.

<https://www.wolverhamptionsafeguarding.org.uk/concerned-about-a-child-or-adult>