

# Safeguarding and Prevent Statutory Frameworks

## 1. Safeguarding

- The legal framework for the protection of children in the UK is set out in the Children Act 1989. A child is defined by this act as any person under the age of 18;
- UCEM are required under the Protection of Children Act 1999 to carry out advanced criminal record checks (DBS checks) before employees may come into contact with children or vulnerable groups;
- Working Together to Safeguard Children (2015) establishes the principles for agencies and professionals to work together to promote the welfare of both children and vulnerable groups, in order to protect them from abuse or neglect. All educational establishments should follow the procedures established by the Area Child Protection Committee for protecting children from abuse. Establishments are also required to have appropriate reporting procedures in place when someone believes a child is at risk or abuse, or having been abused. These procedures should include guidance for when a staff member is accused or suspected of abuse.
- Keeping Children Safe in Education (2019) issues statutory guidance under Section 175 of the Education Act 2002, the Education (Independent School Standards) Regulations 2014, and the Non-Maintained Special Schools (England) Regulations 2015. Schools and colleges in England must have regard to it when carrying out their duties to safeguard and promote the welfare of children.
- The following responsibilities are placed on UCEM by Safeguarding Children and Safer Recruitment in Education (2007), which is derived from the Education Act 2002:
  - Staff should be aware of the signs of abuse, and they should know how and to whom that they should report concerns.
  - A designated safeguarding lead (DSL) should be responsible for co-ordinating the action in UCEM, and liaising with other agencies.
  - Staff with responsibility for safeguarding should be appropriately trained.
  - UCEM should be aware of procedures set out by LSCB's, LEA's or children's social care and should follow these.
  - UCEM should ensure that they have procedures which all staff are aware of for handling suspected cases of abuse of children of vulnerable groups, including procedures for when a staff member is accused or suspected or abuse. According to circular 10/95, parents should be aware of the UCEM safeguarding policy, and that UCEM may be required to share information with external agencies in the interest of child protection or the protection of vulnerable groups.

## 2. Prevent

- UCEM has a responsibility under Section 26 of the Counter-Terrorism and Security Act 2015 to, in the exercise of our functions, have “due regard to the need to prevent people from being drawn into terrorism”.
- The Prevent Strategy 2011, which is part of the government’s overall counter-terrorism strategy ‘CONTEST’ expresses the need for establishments to “prevent people from being drawn into terrorism”. The three strategic aims of the Prevent strategy are:
  1. Respond to the ideological challenge of terrorism and the threat we face from those who promote it.
  2. Prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support.
  3. Work with sectors and institutions where there are risks of radicalisation that we need to address.

## 3. Bullying

Equality Act 2010

## 4. Online Safety

It is important to note that in general terms an action that is illegal if committed offline is also illegal if committed online.

It is recommended that legal advice is sought in the advent of an e safety issue or situation.

### **Computer Misuse Act 1990**

This Act makes it an offence to:

- Erase or amend data or programs without authority;
- Obtain unauthorised access to a computer;
- “Eavesdrop” on a computer;
- Make unauthorised use of computer time or facilities;
- Maliciously corrupt or erase data or programs;
- Deny access to authorised users.

### **Data Protection Act 1998**

This protects the rights and privacy of individual’s data. To comply with the law, information about individuals must be collected and used fairly, stored safely and securely and not disclosed to any third party unlawfully. The Act states that person data must be:

- Fairly and lawfully processed.
- Processed for limited purposes.
- Adequate, relevant and not excessive.
- Accurate.
- Not kept longer than necessary.
- Processed in accordance with the data subject’s rights.
- Secure.
- Not transferred to other countries without adequate protection.

### **Freedom of Information Act 2000**

The Freedom of Information Act gives individuals the right to request information held by public authorities. All public authorities and companies wholly owned by public authorities have obligations under the Freedom of Information Act. When responding to requests, they have to follow a number of set procedures.

### **Communications Act 2003**

Sending by means of the Internet a message or other matter that is grossly offensive or of an indecent, obscene or menacing character; or sending a false message by means of or persistently making use of the Internet for the purpose of causing annoyance, inconvenience or needless anxiety is guilty of an offence liable, on conviction, to imprisonment. This wording is important because an offence is complete as soon as the message has been sent: there is no need to prove any intent or purpose.

### **Malicious Communications Act 1988**

It is an offence to send an indecent, offensive, or threatening letter, electronic communication or other article to another person.

### **Regulation of Investigatory Powers Act 2000**

It is an offence for any person to intentionally and without lawful authority intercept any communication. Monitoring or keeping a record of any form of electronic communications is permitted, in order to:

- Establish the facts;
- Ascertain compliance with regulatory or self-regulatory practices or procedures;
- Demonstrate standards, which are or ought to be achieved by persons using the system;
- Investigate or detect unauthorised use of the communications system;
- Prevent or detect crime or in the interests of national security;
- Ensure the effective operation of the system.
- Monitoring but not recording is also permissible in order to:
  - Ascertain whether the communication is business or personal;
  - Protect or support help line staff.
- UCEM reserves the right to monitor its systems and communications in line with its rights under this act.

### **Trade Marks Act 1994**

This provides protection for Registered Trade Marks, which can be any symbol (words, shapes or images) that are associated with a particular set of goods or services. Registered Trade Marks must not be used without permission. This can also arise from using a Mark that is confusingly similar to an existing Mark.

### **Copyright, Designs and Patents Act 1988**

It is an offence to copy all, or a substantial part of a copyright work. There are, however, certain limited user permissions, such as fair dealing, which means under certain circumstances permission is not needed to copy small amounts for non-commercial research or private study. The Act also provides for Moral Rights, whereby authors can sue if their name is not included in a work they wrote, or if the work has been amended in such a way as to impugn their reputation. Copyright covers materials in print and electronic form, and includes words, images, and sounds, moving images, TV broadcasts and other media (e.g. youtube).

### **Telecommunications Act 1984**

It is an offence to send a message or other matter that is grossly offensive or of an indecent, obscene or menacing character. It is also an offence to send a message that is intended to cause annoyance, inconvenience or needless anxiety to another that the sender knows to be false.

### **Criminal Justice & Public Order Act 1994**

This defines a criminal offence of intentional harassment, which covers all forms of harassment, including sexual. A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, they:

- Use threatening, abusive or insulting words or behaviour, or disorderly behaviour; or
- Display any writing, sign or other visible representation, which is threatening, abusive or insulting, thereby causing that or another person harassment, alarm or distress.

### **Racial and Religious Hatred Act 2006**

This Act makes it a criminal offence to threaten people because of their faith, or to stir up religious hatred by displaying, publishing or distributing written material which is threatening. Other laws already protect people from threats based on their race, nationality or ethnic background.

### **Protection from Harassment Act 1997**

A person must not pursue a course of conduct, which amounts to harassment of another, and which he knows or ought to know amounts to harassment of the other. A person whose course of conduct causes another to fear, on at least two occasions, that violence will be used against him is guilty of an offence if he knows or ought to know that his course of conduct will cause the other so to fear on each of those occasions.

### **Protection of Children Act 1978**

It is an offence to take, permit to be taken, make, possess, show, distribute or advertise indecent images of children in the United Kingdom. A child for these purposes is anyone under the age of 18. Viewing an indecent image of a child on your computer means that you have made a digital image. An image of a child also covers pseudo-photographs (digitally collated or otherwise). A person convicted of such an offence may face up to 10 years in prison

### **Sexual Offences Act 2003**

A grooming offence is committed if you are over 18 and have communicated with a child under 16 at least twice (including by phone or using the Internet) it is an offence to meet them or travel to meet them anywhere in the world with the intention of committing a sexual offence. Causing a child under 16 to watch a sexual act is illegal, including looking at images such as videos, photos or webcams, for your own gratification. It is also an offence for a person in a position of trust to engage in sexual activity with any person under 18, with whom they are in a position of trust. (Typically, teachers, social workers, health professionals, connexions staff fall in this category of trust). Any sexual intercourse with a child under the age of 13 commits the offence of rape.

### **Public Order Act 1986**

This Act makes it a criminal offence to stir up racial hatred by displaying, publishing or distributing written material which is threatening. Like the Racial and Religious Hatred Act 2006 it also makes the possession of inflammatory material with a view of releasing it a criminal offence. Children, Families and Education Directorate page 38 April 2007.

### **Obscene Publications Act 1959 and 1964**

Publishing an "obscene" article is a criminal offence. Publishing includes electronic transmission.

## **Human Rights Act 1998**

This does not deal with any particular issue specifically or any discrete subject area within the law. It is a type of “higher law”, affecting all other laws. In UCEM’s context, human rights to be aware of include:

- The right to a fair trial
- The right to respect for private and family life, home and correspondence
- Freedom of thought, conscience and religion
- Freedom of expression
- Freedom of assembly
- Prohibition of discrimination
- The right to education

These rights are not absolute. UCEM is obliged to respect these rights and freedoms, balancing them against those rights, duties and obligations, which arise from other relevant legislation.

## **The Education and Inspections Act 2006**

Empowers Headteachers, to such extent as is reasonable, to regulate the behaviour of students / pupils when they are off the school site and empowers members of staff to impose disciplinary penalties for inappropriate behaviour.

## **The Education and Inspections Act 2011**

Extended the powers included in the 2006 Act and gave permission for Headteachers (and nominated staff) to search for electronic devices. It also provides powers to search for data on those devices and to delete data. (see [template policy in these appendices and for DfE guidance](#)

<http://www.education.gov.uk/schools/pupilsupport/behaviour/behaviourpolicies/f0076897/screening-searching-and-confiscation>)

## **The Protection of Freedoms Act 2012**

Requires schools to seek permission from a parent / carer to use Biometric systems

## **The School Information Regulations 2012**

Requires schools to publish certain information on its website:

<https://www.gov.uk/guidance/what-maintained-schools-must-publish-online>

## **Serious Crime Act 2015**

Introduced new offence of sexual communication with a child. Also created new offences and orders around gang crime (including CSE)