



communityalliance
working together

information

No. 30

Revised: November 2006

This Information Sheet explains the Children Act 1989 and the Home Office Code of Practice, *Safe from Harm*, which supports and reinforces the Children Act, and offers guidance for situations where the Act itself does not apply.

Safeguarding Children and Young People

1. Introduction

1.1 The Children Act 1989 and subsequent legislation

The Children Act 1989 was the most significant reform of British legislation relating to children in the twentieth century. It has had major implications for everyone working with children in many different areas, including people working in voluntary and community groups. Although it has been revised and supplemented by more recent legislation, its main provisions remain in force.

The main objects of the Act were to promote the safety and welfare of children. It therefore contains provisions relating to family proceedings in the Courts, children in need, Care and Supervision Orders, the regulation of Children's Homes, etc., as well as sections dealing with child minding and day-care provision. It is a complex and comprehensive piece of legislation which brought together and replaced various different laws and regulations, some of which were significantly amended in the process.

Community organisations, unless they are under contract with some other organisation such as a Social Services Department for work with children or young people, are most likely to be directly affected by the more general parts of the Act which relate to, and regulate, the provision of day care or a supervised activity for children under the age of eight years. All such provision now has to be registered with the Office for Standards in Education (Ofsted), unless it is offered on not more than five occasions a year in any particular premises (although Ofsted should still be notified in writing before the care is provided) or for less than two hours per occasion. Activity-based provision (e.g. recreational activity such as dance or drama, or subject-based instruction or tuition, may also be exempt from registration: for more

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information contact the Ofsted helpline (see 5.3 below). There are other exemptions, but these are unlikely to be relevant to community organisations.

Most recently among subsequent legislation, the Education Act 2005 amended the laws that provide the basis for Ofsted's inspection of childcare and nursery education. Regulations prescribe the detailed arrangements, including the period within which Ofsted is required to carry out its inspections and the requirements on providers to keep parents informed. Separate regulations cover registered childcare and nursery education.

The regulations apply 14 national standards and supporting criteria to all registered childcare providers. These are set out in the following six separate documents:

- *Full day care*
- *Sessional day care*
- *Crèches*
- *Out of school care*
- *Childminding*
- *Addendum to national standards from 3 October 2005*

The standards cover a number of areas including health and safety; child protection; special needs; and care, learning and play. For example, registered providers have to meet required ratios of adults to children within particular settings, and there are requirements for staff qualifications.

The relevant standards documents set out the detail of all the requirements. Guidance for childcare providers on meeting the national standards is available from Ofsted.

The national standards for under-eights day care and childminding are kept under continuing review.

More detailed information on the

requirements of the legislation, as they are likely to affect community organisations, is given in Section 2 below.

1.2 Safe from Harm

While the Children Act has played a valuable role in alerting people to many areas of responsibility, the Home Office Code of Practice *Safe from Harm* is an indispensable supplement to it.

Unlike the Children Act, which has the force of law, *Safe from Harm* is a voluntary code. It has, nevertheless, been widely welcomed by national voluntary organisations working with young people, most of whom have insisted that their member groups put its recommendations into effect.

Safe from Harm is intended to cover **all** voluntary activities with children and young people, including those which are exempt from registration under the Children Act. Unlike the Children Act provisions, the *Safe from Harm* recommendations apply to all young people **up to the age of sixteen years**, and best practice will extend this to those up to eighteen years.

Detailed Information on *Safe from Harm* is in Section 3 below, and in the publications listed in 5.1.

1.3 The Criminal Records Bureau (CRB) and the Scottish Criminal Records Office (SCRO)

The implementation of Part V of the Police Act 1997, entailing the establishment of the CRB and the SCRO, has simplified and extended the ways in which organisations working with children and young people (and also with vulnerable adults) may be able, and in many circumstances will be required, to obtain criminal record checks on relevant paid and volunteer workers.

There is a brief introduction in Section 4 of this Information Sheet, and fuller information on the Work of the CRB is in Information Sheet No 81 (*Community Organisations and*

the Criminal Records Bureau), which organisations working in these areas of concern are advised to study.

2. The Children Act and Work with Children Aged Under Eight Years

Where local community groups work with children, the major significance of the Children Act is, in most instances, in relation to work with children aged under eight years. For work with children and young people which is not subject to registration, the recommendations of *Safe from Harm* should be complied with.

Under the Act, local authorities were required to register and monitor all 'day care' provided for children under eight years which is for a period of two hours or more in any one day and for more than five days in any twelve month period. This registration and monitoring is now carried out by the Office for Standards in Education (OFSTED).

Day care (whether 'Full' or 'Sessional' - definitions follow below) is defined as *care provided at any time (day or night) for children under the age of eight on premises other than domestic premises, where the period (or total periods) in any day during which the children are looked after on the premises exceeds two hours*. Private child-minding in domestic premises is separately regulated, but community organisations with day care facilities on their premises or which make day care provision elsewhere are directly affected by the day care provisions. Crèches and out-of-school care are included in this definition. (See 2.2 for further examples of the kinds of activity included).

Full Day Care is where the provision is for a continuous period of more than four hours in any day; and **Sessional Day Care** is where the facilities are open for a continuous period of less than four hours in any day. Examples of Sessional Day Care are groups that open mornings only, or that run both morning and afternoon sessions but with a break between

the sessions when children do not attend.

2.1 Conditions for Registration under the Act

When registration is sought, information must be provided about all people who may be involved in the care of children. Anyone who has a known criminal record relating to offences against children will be disqualified from working with them - Ofsted will make arrangements for workers to be checked through the Criminal Records Bureau.

Ofsted is legally obliged to impose certain requirements. These are:

- to ensure that every person looking after the children on the premises is suitable to look after children under the age of eight, and that every person living or working on the premises is suitable to be in regular contact with children under the age of eight
- to require that premises and equipment are suitable to be used for looking after children under the age of eight
- to require notification of any changes to the premises, and of any change in the hours of provision
- to require that certain records are kept
- to require that any changes in personnel should be reported
- to require that National Standards, regulations, and any other conditions imposed by OFSTED are complied with.

Ofsted will expect day-care providers to obtain advice from their local council's environmental health department to ensure that they are aware of and comply with their obligations under the Health and Safety at Work Act 1974, the Food Safety Act 1990, and associated legislation. Ofsted will also notify the local fire authority of an application, and the fire authority may then arrange an inspection of the premises and

may impose requirements upon the premises.

Ofsted will also, where necessary, require that planning permission is obtained for use of the premises for child care, or alternatively will require evidence that no planning permission is required, and they will require evidence that the local council's building control department is satisfied that any building work undertaken has been completed to a satisfactory standard.

Full information on registration of Day Care provision is given in the free publication, *Day care: Guide to Registration for Day Care Providers*, available from Ofsted (and downloadable from the Ofsted web site).

2.2 Implications for Voluntary Groups: Activities which MUST be registered under the Children Act

- Pre-school groups, where parents or carers are not usually present, are required to register if their activities exceed the two-hour limit.
- Where the pre-school group is directly controlled by a community organisation, it is the duty of the organisation to seek registration. Where a community building is let to another organisation or to individuals it will be the responsibility of that organisation or those individuals to seek registration.
- There will, however, be a need for a community organisation managing a community building to work in co-operation with the hirers, as the suitability of the premises is a vital part of the registration.
- Additional information on the implications of the Children Act for pre-school groups can be obtained from the Pre-School Learning Alliance (contact details in 5.3 below).
- Any toddlers' group must be registered if it operates for more than two hours in any one day, and if the parent or appointed carer of any child is not present for the whole period of the provision.
- Crèche facilities require registration if they cover a period of over two hours, even though individual children may be present for shorter periods.
- Out-of-school care (before school, after school or during school holidays), including 'open access schemes' for children under eight years, operating for more than two hours in any day and for more than five days a year, will need to be registered.
- Holiday clubs and playschemes, if they meet for more than five days in any one year, are required to register.
- Children's holidays do not normally include children as young as eight years, but if such children are to be included registration will probably be required.
- Open-access schemes (providing supervised play opportunities for children in a safe environment) are included since, although these generally cater for older children, under-eights may attend.

There are standard fees for registration and annual inspections; current details of fees are on the Ofsted web site.

2.3 Implications for Voluntary Groups: Workers with children and other young people on the premises

Registration will almost certainly be denied if anyone who will be working with children has been convicted of certain types of offence, particularly offences against children (For details see the booklet *Day care: Guide to Registration for Day Care Providers* - see 5.1 below).

OFSTED also has to be satisfied that no-one who has been convicted of an offence against children will be 'in the proximity' of young

children. Furthermore, under the provisions of the Protection of Children Act 1999 it is a criminal offence knowingly to offer employment (as a paid worker or volunteer) to someone who has been banned from working with children. It is also an offence for such a person to apply for or to undertake such work.

a) *Workers with Children*

Voluntary organisations working with children are advised, and in some circumstances are legally required, to seek information, through the Criminal Records Bureau (CRB), on any criminal record of each worker (paid or voluntary), in order that the organisation may satisfy itself that these workers have not at any time been convicted of any offence against children (See Section 4 below for more information).

In addition, OFSTED will take other factors into consideration when deciding whether a person is suitable to work with children. These factors are spelled out in the National Standards (see 1.1 above)..

b) *Other People on the Premises*

OFSTED must satisfy itself that other people living or present on the premises are suitable to be in the proximity of children under eight. This will include resident caretakers, and caretakers or cleaners regularly on the premises while the children are present. OFSTED will need to know who these people will be, and this will need to be handled sensitively. In some instances, CRB checks will need to be made upon these people.

In larger community centres, there may well be other activities going on at the same time as a day care facility. However, only the areas used by the children are subject to registration and inspection.

Nevertheless, it may be required and, as a matter of good practice, groups are advised to make sure that young children do not come into contact with casual visitors to the premises unless accompanied by one of the

adults responsible for the group - for example, when children visit the toilet or leave the premises.

If it becomes known that someone regularly employed at the premises has been convicted of an offence against children, it is essential to contact Ofsted for advice.

3. *Safe From Harm: the Home Office Code of Practice*

Safe from Harm was published by the Home Office in 1993. It is intended specifically for workers with children and young people in voluntary and community organisations. It has no statutory force, but it sets out some key principles and more detailed guidelines 'designed to help voluntary organisations to consider how best to fulfil their duty to care for the children and young people with whom they come into contact'.

The heart of *Safe from Harm* is a series of recommendations. Broadly, they deal with issues of managing the organisation in order to protect children, managing paid staff, choosing the right staff and volunteers, and dealing with abuse when it has been disclosed or discovered.

While the focus of the recommendations is on the protection of children, the effect of adopting and implementing them would also be to give a considerable degree of protection to the workers themselves, for example against unfounded suspicions or allegations.

3.1 The Safe from Harm Guidelines

The key recommendations ('guidelines') are as follows.

1. Adopt a Policy Statement on Safeguarding the Welfare of Children. (See Appendix 1 to this Information Sheet for an example of such a statement).
2. Plan the work of the organisation so as to minimise situations where the abuse of children may occur.

3. Introduce a system whereby children may talk with an independent person.
4. Apply agreed procedures for protecting children to all paid staff and volunteers.
5. Give all paid staff and volunteers clear roles.
6. Use supervision as a means of protecting children.
7. Treat all would-be paid staff and volunteers as job applicants for any position involving contact with children.
8. When considering any such applicant, obtain at least one reference from a person who has experience of the applicant's paid work or volunteering with children.
9. Explore all applicants' experience of working or contact with children in an interview before appointment.
10. Find out whether an applicant has any conviction for criminal offences against children (a form for this purpose is in Appendix 2 to this Information Sheet, and see also Section 4. below).
11. Make paid and voluntary appointments conditional on the successful completion of a probationary period.
12. Issue guidelines on how to deal with disclosure or discovery of abuse.
13. Train paid staff and volunteers, their line managers or supervisors, and policy makers in the prevention of child abuse.

Safe from Harm also offers advice and practical suggestions on ways in which these guidelines may be implemented. All voluntary and community organisations working with children and young people are advised to consider how the recommendations should be applied to their own particular situation.

Section 5 below offers advice and information on publications and training opportunities designed to enable organisations and workers to comply with these recommendations.

3.2 Training

In relation to Guideline 13, *Safe from Harm* particularly sets out the following areas in which training may be required:

- Planning the work of the organisation to prevent abuse.
- Becoming an 'independent person' to whom children may make representations (Guideline 3).
- Using supervision as a means of protecting children (Guideline 6).
- Interviewing applicants for positions involving work with children (Guideline 9).
- Dealing with abuse which has been disclosed or discovered (Guideline 12).

4. The Criminal Records Bureau (CRB)

The Criminal Records Bureau (CRB) has been established by the Government to facilitate safer recruitment of both paid staff and volunteers who work with children under the age of 18 and/or with vulnerable adults. The CRB operates throughout England and Wales, while the Scottish Criminal Records Office (SCRO) is providing a similar service in Scotland. There is as yet no comparable body for Northern Ireland.

All new workers with children and young people should now be checked through the CRB or SCRO before their appointment is confirmed. Fuller information on the work of the CRB is to be found in Information Sheet 81 (*Community Organisations and the Criminal Records Bureau*), which anyone

involved in considering the issues raised by this present Information Sheet should consult.

However, it is important to stress that CRB checks are supplementary to the other procedures set out above, and in no way replace them.

5. Further Information

5.1 Further Reading

Day care: Guide to Registration for Day Care Providers, available directly from Ofsted and may be downloaded from the Ofsted web site. (contact details in 5.2 below).

firstcheck: a step by step guide for organisations to safeguard children (NSPCC, undated).

Safe from Harm: A Code of Practice for Safeguarding the Welfare of Children in Voluntary Organisations in England and Wales (The Home Office, 1993)

Safeguarding: A policy for good practice in the care of children and young people (The Methodist Church, 2000, with more recent update information also available). Written from a churches point of view, but relevant to non-church organisations. Gives very practical suggestions on how to comply with the *Safe from Harm* Guidelines, and a model set of Guidelines for Action when abuse is discovered or suspected. Available from Methodist Publishing House (contact details in 5.2 below).

5.2 Training Providers

One organisation which provides training in child protection matters, geared particularly to the needs of community organisations, is the Churches Child Protection Advisory Service (CCPAS).

The Pre-School Learning Alliance also offers training in relation specifically to work with pre-school age children. (Contact details for both organisations are in section 5.3 below).

NSPCC Child Protection Awareness Programme: details from Educare (see 5.3 below)

NSPCC video training pack (*Safeguarding Children: Everybody's Business*)

5.3 Addresses

Churches Child Protection Advisory Service (CCPAS),

☎ 0845 120 45 49;
www.pcca.co.uk

Criminal Records Bureau,
Helpline ☎ 0870 90 90 811;
www.crb.gov.uk

Educare: deBrus Marketing,
☎ 01926 426219;
www.debrus.co.uk

The Home Office,
☎ 020 7035 4848;
www.homeoffice.gov.uk

4Children (formerly Kids Clubs Network),
☎ 020 7512 2112
www.4children.org.uk

Methodist Publishing House,
☎ 01733 325002; www.mph.org.uk
See also information on Safeguarding on the Methodist Church web site: www.methodist.org.uk

The National Council of Voluntary Child Care Organisations (NCVCCO),
☎ 020 7833 3319;
www.ncvcco.org

The National Day Nurseries Association (NDNA),
☎ 0870 774 4244;
www.ndna.org.uk

National Society for the Prevention of Cruelty to Children (NSPCC),
☎ 0808 800 5000;
publications ☎ 020 7825 2775;
www.nspcc.org.uk

Office for Standards in Education (Ofsted),
 ☎ 0207 421 6800; www.ofsted.gov.uk.
 Ofsted Helpline ☎ 08456 404040

The Pre-School Learning Alliance (PLA).
 ☎ 020 7833 0911; www.pre-school.org.uk.

APPENDIX 1

A Specimen Policy Statement on Safeguarding Children and Young People

.....
[Name of Organisation] is concerned to safeguard the wholeness and the well-being of every person in our community, of whatever age. It is the responsibility of each one of us to prevent the physical, sexual or emotional abuse of every member of our community, and particularly the abuse of those most vulnerable among us, including children and young people.

It is the duty of all those who work with children and young people to prevent harm and abuse of every kind, and to report any abuse discovered or suspected.

*It is the policy of
 [Name of Organisation] that no-one shall work with children and young people within[the Organisation] who:*

- *has been convicted of or has received a formal police caution concerning an offence against children as listed in the First Schedule of the Children and Young Person’s Act 1933; or*
- *has been convicted of or has received a formal police caution concerning sexual offences against children and young people.*

This means that:

- *all who work with children and young people under the auspices of [Name of Organisation] will be required to be checked through the Criminal Records Bureau, and are expected at all times to*

conform with good practice in their work; and

- *those responsible for the appointment of such workers must take all reasonable steps, including obtaining Disclosures from the Criminal Records Bureau, to ensure that persons who have been convicted or have received a formal police caution concerning sexual offences against children or young people shall not undertake work with children and young people under the auspices of [the Organisation].*

Such a statement should be widely publicised - e.g. on a poster or notice board in your building. It should certainly be brought to the attention of all existing and new workers with children and young people, and discussed with them as part of their induction process.

APPENDIX 2

Form of Declaration regarding Criminal Convictions and Consent to a Criminal Records Bureau Check

I consent to an Enhanced / Standard Disclosure check being made with the Criminal Records Bureau (CRB) to determine whether there is any record of pending prosecutions, previous convictions, cautions, or bindovers against me.

I am aware that details of spent convictions will be disclosed along with other relevant information which may be known to the CRB.

Signed.....

Date.....