

Getting to
grips with

Safeguarding:

A guide for governors

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ABOUT THIS GUIDE

Safeguarding is a term often used in the higher education sector to cover a range of issues. However, higher education providers (HEPs) are not subject to legal safeguarding duties in the same way that schools, further education colleges, local authorities and care providers are. Nevertheless, many HEPs do use the term 'safeguarding' to cover wider ethical or pastoral responsibilities where it may be possible to help to safeguard the welfare of children and adults at risk of abuse or neglect. In that respect this guide uses the term 'safeguarding' in its widest possible sense throughout.

HEPs are obliged to comply with some safeguarding-related legislation. For example, Prevent (section 26 of the Counter-Terrorism and Security Act 2015) places a duty on HEPs to have "due regard to the need to prevent people from being drawn into terrorism". Separate Leadership Foundation for Higher Education / Committee of University Chairs (CUC) guidance is available on Prevent (www.universitychairs.ac.uk/wp-content/uploads/2016/05/CUC-Prevent-IPN-Revised-Edition.pdf), so this guide only discusses this area briefly.

The aim of this guide is to prompt governors of HEPs to understand the difference between legal safeguarding responsibilities and their general duty of care, and to help governors to think about how these are addressed in their own HEP.

The guide is split into sections focusing on under-18s, adults over 18, and general considerations for both groups of vulnerable people. Throughout, there are key questions for you to consider in your role as a governor.

The guide draws on the expertise of Student Services leaders in higher education, and does not offer legal advice. It does, however, give an indication of where the law may apply to policy and practice.

SAFEGUARDING OVERVIEW

Safeguarding and promoting welfare in relation to children is defined in statutory guidance for schools and colleges as protecting from maltreatment, preventing impairment of children’s health and development, ensuring that children grow up in circumstances consistent with the provision of safe and effective care, and taking action to enable all children to have the best outcomes.

“Under-18s and adults at risk are inherently more vulnerable to all forms of abuse and exploitation, and therefore HEPs need to adopt an approach in which relevant staff are alert to the possibility of safeguarding issues arising”

Safeguarding adults is primarily about protecting vulnerable adults (those in care settings or those who are not capable of managing their own affairs) from abuse and neglect. The specific legal relevance to HEPs is likely to be minimal, except where medical and allied medical staff and students are on placement.

In UK law a person under the age of 18 is a child. For adults (defined as 18 years or older), a multitude of factors determine whether safeguarding becomes a relevant consideration, and not all of these factors are easily identifiable. An adult at risk (sometimes referred to as a vulnerable adult) is defined as any person who is aged 18 years or over and at risk of abuse or neglect because of their needs for care and/or support. There is no definitive list of who adults at risk are, because each situation needs to be considered on its own merits.

“It would be sensible to prepare for such scenarios because determining policy in the midst of dealing with a highly emotive personal issue is likely to lead to bad decision making.”

Where higher education is delivered through a further education college (FEC), or where students are on placement in a teaching, health or social care setting, students may fall under the safeguarding legislation as it applies to the FEC or placement provider. This does not, however, place any additional legal responsibility on HEPs.

SAFEGUARDING LEGISLATION INCLUDES:

- I Safeguarding Vulnerable Groups Act (2006) – www.legislation.gov.uk/ukpga/2006/47/contents
- I Working Together to Safeguard Children (2015) – www.gov.uk/government/publications/working-together-to-safeguard-children--2
- I Safeguarding Policy: Protecting Vulnerable Adults (2017) – www.gov.uk/government/publications/safeguarding-policy-protecting-vulnerable-adults
- I The Care Act (2014) – www.legislation.gov.uk/ukpga/2014/23/contents/enacted
- I Keeping Children Safe in Education, September 2016 - www.gov.uk/government/publications/keeping-children-safe-in-education--2

KEY QUESTION: are you familiar with the key legislation related to safeguarding?

Under-18s and adults at risk are inherently more vulnerable to all forms of abuse and exploitation, and therefore HEPs need to adopt an approach in which relevant staff are alert to the possibility of safeguarding issues arising in a wide variety of ways and in a wide variety of contexts. The Prevent duty, though, applies to all ‘people’ – that is, any age group and including all staff and all students, as opposed to just adults at risk. This is worth emphasising because confusion can arise between the conflation of terminology – “adults vulnerable to being drawn into terrorism” is not the same as vulnerable adults / adults at risk.

It would be easy to assume that some issues, such as forced marriage, female genital mutilation (FGM) and human trafficking / modern slavery would occur infrequently within a higher education setting. However, given that HEPs often have very large numbers of students, and deep connections with local communities, it is sensible to assume that, cumulatively, a large number of these issues may come to the attention of HEPs.

It would be sensible to prepare for such scenarios because determining policy in the midst of dealing with a highly emotive personal issue is likely to lead to bad decision making, with potentially profoundly negative impacts for individuals and reputational damage to the HEP.

KEY QUESTION: does your HEP have a clear procedure for staff who wish to report concerns about children to relevant local authorities?

Case study: identifying a safeguarding issue

Wendy, a mature student, approaches her university's welfare team and discloses that her live-in partner is very controlling, restricts her access to finances and dislikes her making new friends. The tearful student also admits that occasionally her partner can be violent towards her. The welfare advisor supports the student by providing Wendy with advice and guidance, and helps her to understand all of her options for managing the situation. Wendy knows she could go to the police and that there is excellent support from a local specialist charity. Wendy is also made aware of all the support the university can offer her. The welfare adviser is very clear that Wendy will be supported in whatever decision she makes, but that it has to be Wendy's own decision.

While Wendy is in a difficult situation, legally this is not considered a safeguarding situation because Wendy is not under 18 or a vulnerable adult as defined by safeguarding legislation. However, if Wendy had a child living with her – whether a 17 year old or a three year old – then this does become a child safeguarding issue. Although HEPs do not have a statutory duty to report, the individual dealing with the case may feel an ethical or moral obligation to do so. Again, although not a statutory requirement, it can be useful for HEPs to have procedures in place about informing relevant external parties (for example, local social services). Considering domestic or sexual violence solely in terms of how it impacts on the welfare of a specific adult would be very likely to lead to important child safeguarding issues being overlooked.

IMPLICATIONS FOR BOARDS OF GOVERNORS

Oversight

As a governing body you will have oversight of the required areas of governance through the lens of your HEP committee structure. Although HEPs do not have a statutory safeguarding duty in the same way that schools, colleges and care providers do, HEP governors have a responsibility to “receive assurance that adequate provision has been made for the general welfare of students.”

“HEP governors have a responsibility to receive assurance that adequate provision has been made for the general welfare of students.”

It may be that your HEP already has a committee that oversees student welfare, or a committee that considers student welfare as part of its remit. At some HEPs, a health and safety or wellbeing committee considers student welfare; at others, an audit committee receives annual reports on welfare-related issues. At some HEPs, welfare may not be reported to any committee.

KEY QUESTION: is student welfare reported within your committee structures?

- I Is there a committee with ‘welfare’ (perhaps called something else) in its terms of reference?
- I Is welfare reported to the governing body on a regular basis?
- I Is it clear to staff, including governors, how to raise any welfare concerns?
- I As a governor, are you satisfied that your HEP has stringent processes in place, which are working effectively to deal with welfare issues?
- I Do governors, through your committee structure, receive adequate assurances that a proactive approach to dealing with welfare issues is being applied?

Policy

“While there is no statutory obligation for HEPs to have a safeguarding policy, it is good practice to do so”

Alongside having a structure that ensures that support for student welfare (including any safeguarding issues if appropriate) is regularly reviewed, many HEPs have developed safeguarding policies. While there is no statutory obligation for HEPs to have a safeguarding policy, it is good practice to do so. Due to the breadth of activities carried out by a HEP, multiple safeguarding policies may exist. For example, a teacher training department will be required to have safeguarding at the heart of what it does, and is highly likely to have a specific policy and procedure to deal with safeguarding issues relating to its students and placements.

“HEPs have a clear interest in supporting their students, which goes much further than strictly legal obligations.”

KEY QUESTION: does your HEP have a safeguarding policy / policies?

- I How is this disseminated to staff?
- I If your HEP has more than one policy, are they consistent?

Principles and processes

Since safeguarding should be everyone's pastoral and ethical responsibility, adopting safeguarding principles as good practice is likely to help HEP staff act appropriately. But as well as this, processes and structures need to be in place so that the HEP acts responsibly when issues covered under safeguarding legislation are recognised.

As already noted, although HEPs may not have statutory safeguarding duties as other organisations do, governors do have an overall responsibility for general student and staff welfare. Under the CUC Code of Governance, governors have a responsibility to "receive assurance that adequate provision has been made for the general welfare of students". HEPs should make clear in all their marketing materials, student handbooks and suchlike what services are available (for example, counselling, pastoral support), and what support may be offered by HEP staff (such as personal tutoring). While there is no clear definition of what this welfare provision looks like in practice, HEPs have a contractual duty towards students to deliver services, including any welfare or pastoral services, to a reasonable standard. Therefore it is important that HEPs are very clear about the extent of the services they offer to students. This is also a requirement of consumer protection legislation.

Further, HEPs have a duty of care to take reasonable steps to prevent harm occurring, where that harm is within the HEP's reasonable control and hence is not too remote. HEPs also have duties under health and safety legislation. In relation to students, that duty is to conduct their undertakings in such a way as to ensure, so far as is reasonably practicable, that students (and any other non-employees) who may be affected by it are not thereby exposed to risks to their health or safety.

HEPs have a clear interest in supporting their students, which goes much further than strictly legal obligations.

KEY QUESTION: are you assured that HEP staff understand their responsibilities under safeguarding legislation and how responses may be different to duty of care situations?

Case study: safeguarding v duty of care

Emma, a history student, is seeing a university counsellor. She discloses that she has been self-harming by cutting and has had suicidal thoughts ideation. The counsellor works on a safety plan with Emma. Emma's university flatmates contact the accommodation manager to say that on three occasions Emma has cut herself and bled in shared areas of the flat. The students tell the manager that Emma has talked to them about "ending it all". The students have been very supportive of Emma, and have taken her to A&E, and sat with her, on a couple of occasions. The students say that Emma's behaviour is impacting on their own wellbeing, and ask the university to intervene.

Emma continues to be supported by her counsellor and is also linked into local NHS mental health services. While receiving appropriate support, her self-harming behaviour continues and the impact on her flatmates increases. The university initiates its Fitness to Study process as a supportive mechanism, detailing clear actions, behavioural expectations and support for Emma. Emma is made aware that if her behaviour does not change, her case may be considered at a higher level of the Fitness to Study policy, which might see her being required to take a break from study.

This difficult example, familiar to HEP student support staff, highlights the multiple ethical and moral responsibilities on the part of the HEP. Emma may be vulnerable given her mental health condition, but because a HEP is not a provider of health and social care under the Care Act 2014, the HEP does not have any statutory safeguarding obligations. The HEP has a Fitness to Study policy, by which it undertakes as a matter of contract to intervene when a student is too ill to study. The HEP is not causing the student's self-harming and is not responsible in a legal sense, other than to apply the Fitness to Study policy.

However, the HEP does need to ensure that it is providing appropriate support, which may be confined to signposting all students involved in the case to other appropriate professional services, and applying its policies consistently – in this case, Fitness to Study.

GENERAL CONSIDERATIONS FOR SAFEGUARDING

Prevent

The Counter-Terrorism and Security Act (2015) places a statutory duty on HEPs in England, Wales and Scotland to have “due regard to the need to prevent people from being drawn into terrorism” (the Prevent Duty). It should be noted that Part 5 of the Act, which lays out the Prevent Duty, does not apply to Northern Ireland.

“Governing bodies need to be satisfied that an appropriate set of policies are in place and are being actively and effectively implemented”

Many of these expectations connected to the Prevent Duty relate to the safeguarding of students, for which HEPs already have extensive and effective arrangements in place.

The government has published guidance on the Prevent Duty: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/445977/3799_Revised_Prevent_Duty_Guidance__England__Wales_V2-Interactive.pdf.

The Office for Students (OfS) has HEP-specific guidance and case studies: www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty.

There are also resources available at: www.safecampuscommunities.ac.uk/the-prevent-agenda.

Arrangements in Scotland are different. It is the responsibility of each HEP to determine what measures it will take to address this statutory duty. A good practice guide (www.ed.ac.uk/files/atoms/files/good_practice_guide_2015.pdf) has been prepared to encourage the adoption of consistent good practice across the Scottish higher education sector.

In England, OfS also expects governing bodies to seek assurances that their HEP has considered a refreshed Prevent risk assessment for the year ahead, and an updated action plan addressing any issues identified. HEPs need to submit an annual report to OfS in December or March each year. In the context of their Prevent duty, HEPs must also notify OfS of any changes to core policies that OfS has previously assessed (such as a significant change to an information technology policy), any significant changes of circumstance affecting the provider’s Prevent responsibilities (such as a change in Prevent lead) and any serious Prevent-related incidents.

Governing bodies need to be satisfied that an appropriate set of policies are in place and are being actively and effectively implemented, that there are effective communication channels both within the HEP and with outside organisations, and that the HEP’s senior officers are exercising appropriate judgements in line with the agreed policies.

KEY QUESTION: are you satisfied that an appropriate set of policies on your Prevent duty are in place and being effectively implemented?

- I Are responsible senior officers of the HEP exercising appropriate judgements in line with the agreed policies?
- I Do you have assurance that there are appropriate reporting mechanisms in place to keep OfS sufficiently informed?
- I Does your HEP have a separate Prevent policy and procedure? Or does it follow suggested good practice and have a safeguarding policy and procedures that integrate Prevent, as there is a statutory responsibility for providers to have welfare mechanisms and referral pathways (internal and external) in relation to Prevent concerns?

Disclosure and barring

As mentioned above, HEPs do not fall under the same safeguarding duty as schools and further education colleges. However, they may still be carrying out regulated activities as defined under the Safeguarding Vulnerable Groups Act 2006 (SVGA), and staff engaged in these may be eligible for a Disclosure and Barring Service (DBS) check. This service helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups.

“Regardless of whether or not a post is eligible for a DBS check, HEPs should ensure that their staff recruitment processes are robust and follow up on references and any unexplained gaps in employment.”

Whether or not a particular role should be subject to a DBS check will depend on the specific nature of the role itself and takes into consideration the type of support provided and the level and frequency of the support. There are two levels of check: Standard and Enhanced. Most staff working in a HEP are likely to be eligible only for a Standard level check, if indeed any is needed at all, although a few staff may be regularly providing intensive support to those with extensive disabilities.

Students on professional training courses, and in many cases academics from those programmes, are also likely to require DBS checks. A useful online tool is available at www.gov.uk/government/collections/dbs-eligibility-guidance, which enables HEPs to check individual roles. Care needs to be taken in relation to DBS checks because DBS has the power to remove registered body status from organisations that routinely conduct checks on ineligible posts.

Regardless of whether or not a post is eligible for a DBS check, HEPs should ensure that their staff recruitment processes are robust and follow up on references and any unexplained gaps in employment.

KEY QUESTION: is there an adequate approach in place to ensure that roles across your HEP are properly risk assessed to ensure which posts are eligible for a DBS check?

- I Where DBS checks are required, does your HEP have robust policies in place to ensure they comply with DBS legislation?
- I Are policies and procedures in place in respect of DBS checking and related safekeeping of information for both staff and students?
- I Even where an activity is not deemed to require a DBS check, are you satisfied that staff are properly trained and aware of any safeguarding responsibilities?
- I Where students may be subject to a DBS check, is this made clear at recruitment, and are they clear about the implications of ‘failing’ a check?

Key safeguarding contact

Although there is no legal requirement for HEPs to have a designated safeguarding officer, it is good practice to appoint a senior person who has oversight of these issues and who can also act as a point of contact for any external body, such as the Local Authority Designated Officer (LADO).

An issue might arise from activities falling under the remit of the HEP. Alternatively, your HEP may be contacted by a LADO if safeguarding concerns relating to its staff or students have been raised elsewhere. A LADO may contact any member of staff directly, so it is vital that all staff know where to refer any reported safeguarding concerns.

“Although there is no legal requirement for HEPs to have a designated safeguarding officer, it is good practice to appoint a senior person who has oversight of these issues”

Some of the key responsibilities of a safeguarding officer are likely to be:

- Ensuring (through appropriate delegations) that risk assessments are undertaken prior to any activity involving children.
- Providing HEP staff with any appropriate information, advice and training on the safeguarding of children.
- Liaising with the local children’s and adult social safeguarding boards, LADOs and the police over any identified safeguarding issues.
- Maintaining confidential records of any safeguarding-related activity.

KEY QUESTION: does your HEP have a central point of contact to liaise with relevant services when a safeguarding issue is identified?

- If so, are all staff aware of who this is and how to report any concerns?

Case study: identifying a key safeguarding contact

A HEP appoints a senior member of staff as the university’s safeguarding manager (SM). The person appointed is of an appropriate level of seniority to ensure that the university complies with safeguarding policies and procedures, has relevant experience, and has received appropriate training in safeguarding issues. The SM carries overall responsibility for the implementation of the HEP’s safeguarding policy, procedure and staff training and awareness. As well as providing regular reports to the HEP’s Health, Safety and Wellbeing Committee so that governors can assure themselves that the HEP is meeting any safeguarding requirements, the SM provides an annual report to the Audit and Risk Committee. This contains:

- An anonymised summary of all incidents / issues of concern raised in accordance with the policy / procedure.
- An outline of the status of the policy / procedure, including review dates and any procedural or documentation changes required as a result of issues raised, external legislation or operation of the policy / procedures.
- An outline of what training has been offered, and to which staff groups.

On an operational level, the SM delegates to appropriate staff members. So, for each organised activity concerning children or adults at risk, a named child safeguarding officer (or similar) must be identified. This person will be available to provide first line support and advice to employees on child safeguarding issues, and be the first point of contact for staff dealing with incidents or issues of concern.

Data protection

To comply with the data protection regime it is important to ensure that any procedures include effective data protection protocols to protect sensitive data about individuals, and that procedures are compliant with the General Data Protection Regulations (GDPR), and with the Data Protection Act 2018 (collectively “data protection law”). The data protection law requires organisations and individuals to ensure that their processing (for example, sharing) of personal data is justified. Stricter conditions apply to justify processing sensitive personal data. Personal data must also be secure. But importantly, data protection law does not prevent sharing data with relevant others for safeguarding purposes, for example where a child or vulnerable adult is at risk of harm.

“Stricter conditions apply to justify processing sensitive personal data”

KEY QUESTION: does your HEP’s data protection policies cover the sharing of data where safeguarding or wellbeing concerns may arise?

- Is it clear who in your HEP has responsibility for decisions about sharing data concerning safeguarding or wellbeing issues?
- Are staff aware of the process and nominated authority?

Research

Some research topics may have safeguarding implications. HEPs will already have their own research ethics committees and it is important that any potential safeguarding issues are included in the ethical approval process. HEPs will also need to comply with any relevant external body’s ethical approval process.

KEY QUESTION: does your HEP have a robust ethical approval process for research that covers safeguarding issues?

SAFEGUARDING UNDER-18s

It could be assumed that a HEP's contact with people under 18 years old is limited, given that the majority of the student population will be over 18. However, closer scrutiny is likely to identify a range of activities carried out by staff and students that involve under-18s. These might include:

- Outreach activity (for example, student ambassadors engaged in delivering outreach in schools).
- Student volunteering (for example, running sports clubs, after school clubs).
- Visits for groups of children to the HEP (for example, taster days).
- Recruitment events where under-18s may be in attendance.
- Community events and festivals where children may attend with or without parents.
- Residential summer schools.
- Under-18s studying on courses.
- Staff and students bringing their children onto campus.
- Students on programmes that include a placement in a setting covered by statutory safeguarding reporting requirements.
- Research involving under-18s.

“closer scrutiny is likely to identify a range of activities carried out by staff and students that involve under-18s”

KEY QUESTION: are you confident that your HEP properly considers the safeguarding risks for all activities that could bring your staff or students into contact with under-18s?

Due to the diversity of activities involving under-18s, there will probably be local leads relating to each of these activities. For example, an outreach manager may coordinate outreach activities. This lead may be able to provide training and support for students engaged in outreach activities where they may come into contact with under-18s. These leads will need to have knowledge of safeguarding issues as they relate to their own areas.

On-campus activities for under-18s

There may be a number of opportunities for under-18s to be present on campus. When a visit is organised by an external body, such as a school, this body will usually assume responsibility for safeguarding. However, it is advisable that a health and safety risk assessment should be carried out in advance, and all roles and responsibilities clarified in advance. Similarly, for community and public engagement, communication should be clear in advance as to whether children need to be accompanied on visits.

Where the HEP offers on-campus recruitment events, such as open days or interviews, there is a high likelihood that under-18s may attend on their own. A risk assessment should be completed to understand if there are any health, safety or welfare issues that may need to be addressed. For example, would any activity be considered as regulated under the Safeguarding Vulnerable Groups Act 2006, and therefore would staff be eligible for a DBS check?

For residential summer schools, where children attend and stay on campus overnight, the overnight element will make this a regulated activity (regardless of intensity), and therefore staff, students and volunteers who provide overnight supervision may be eligible for an enhanced DBS check.

From time to time staff and students may bring their children onto campus. Your HEP may want to provide guidance about the circumstances in which this is acceptable and what responsibilities both the parent and the HEP may have when this occurs.

Under-18s may also come onto campus for events directed at the general public. It is unlikely that the HEP would have any specific safeguarding responsibilities for these activities, but nevertheless a risk assessment should identify any areas of concern and steps that can be taken to address these.

KEY QUESTION: does your HEP have a policy outlining the responsibilities of staff, students and the general public bringing under-18s onto campus?

Students under 18

The Equality Act 2010 ensures that HEPs may not discriminate on the grounds of age, and therefore some students may enter higher education before they are 18. Although many under-18 students are likely to reach the age of 18 within a few months of enrolment, HEPs should ensure that a statement is made to parents / guardians outlining the level of responsibility the HEP will assume for the young person. This will usually include reference to the fact that the HEP is an adult environment, and therefore the student will be treated as an adult (with limitations and exceptions outlined).

“HEPs should ensure that a statement is made to parents / guardians outlining the level of responsibility the HEP will assume for the young person.”

The policy may state what conditions the HEP attaches to accepting the student depending on how much younger than 18 the student is, and consideration should be given as to which point in the applications and admissions processes this information should be provided. It should be noted that once the offer of a place has been accepted, the HEP is unable to change any conditions.

“safeguarding is everyone’s responsibility”

KEY QUESTION: does your HEP have a policy for students who are under 18, outlining what the HEP’s responsibility is (and is not)?

I At what point in the applications and offer cycle is this communicated to applicants and parents / carers?

In Scotland, HEPs are considered to be ‘corporate parents’ when they have responsibility for children, under Section 63 of the Children and Young People (Scotland) Act 2014 (www.gov.scot/Publications/2015/08/5260).

Under-18s off campus

When your HEP’s students are working with under-18s (whether on a voluntary or paid capacity), for example in schools outreach or volunteering with sports clubs, there should be a process in place for raising concerns with the relevant organising body. The HEP should also have a point of contact to support students in reporting their concerns.

When students are on placement in an organisation that is subject to statutory safeguarding reporting, such as when studying teacher training, nursing or social work, their course is likely to cover safeguarding as part of the curriculum. Many will also have a separate policy for reporting safeguarding concerns. HEPs are often large, diverse institutions, but it is vital that safeguarding policy and process is coordinated and that a consistent response is delivered.

Under-18s safeguarding issues disclosed to staff

Sometimes a potential safeguarding issue may be disclosed to a staff member, which does not directly relate to a student. All professionals need to be aware that Working Together to Safeguard Children (2017) states that “safeguarding is everyone’s responsibility” and that children have said that they “need adults to notice when things are troubling them”. Although HEP staff are not covered by this document, providing safeguarding training, policies and procedures can help to ensure that any child safeguarding issues, however they present, are handled appropriately by HEPs, thereby contributing to the safety and wellbeing of all children. The earlier case study about Wendy highlights the importance of this.

You can measure the success of training and awareness-raising of safeguarding issues alongside clear and transparent procedures for handling safeguarding referrals. For example:

- One important metric is an increase in safeguarding referrals. For example, at one HEP, there was a doubling of safeguarding referrals when a central team took over responsibility for safeguarding. Referrals continued to increase with the launch of face-to-face safeguarding training for tutors, along with publicity ahead of the launch of mandatory online safeguarding training for all staff.
- A further metric of success is linking student retention with safeguarding. Safeguarding issues often present when a student is in crisis with their studies. While the paramount consideration is the statutory safeguarding responsibility for the child in each case, metrics on the retention and ultimate success of the student reflect a holistic approach taken to student wellbeing and academic support.

KEY QUESTION: does your governing body receive reports on the number of safeguarding referrals?

Safeguarding and fitness to practice

Occasionally an external body, normally the LADO, may contact your HEP in relation to concerns that have been raised about staff or students. Most commonly this will relate to students on health, social work or teaching programmes, and there may be concerns about students abusing their position of trust. It is important to understand what the role of the HEP may be in dealing with such allegations, which can be particularly difficult if there is no concrete information. Raising concerns directly with a student at the wrong time may impact on any ongoing investigations, so HEP staff must take care to only take action when advised to do so by the appropriate agency.

Case study: safeguarding concerns about a nursing student

Penny, a nursing student, is subject to serious abuse from her live-in partner. Penny’s child lives with them and witnesses this abuse. The abuse has taken place over a long period of time, but the relationship continues, despite statutory agencies offering support to Penny. The Local Authority Designated Officer contacts Penny’s HEP with two concerns. The direct risk is that Penny has continued to place her daughter in an unsafe environment by allowing her to live in a house where domestic violence is ongoing. However, there is also a transferable risk in that, as part of her course and her profession when she qualifies, Penny is in a position where she is offering advice and support to women who may be subject to domestic violence. Working as a nurse, Penny is subject to statutory safeguarding requirements, and if she is unable to safeguard herself and her child, there is doubt that she will be able to safeguard others.

The HEP implements a Fitness to Practise investigation, which finds that Penny is unlikely to be able to fulfil the professional standards for her profession, and subsequently Penny is withdrawn.

SAFEGUARDING ADULTS AT RISK

For children, the demarcation of when they are subject to safeguarding laws is very clear – they must be under 18 years old. Safeguarding for adults is less clear, because the definition of who is vulnerable and when they might be subject to safeguarding protection depends on a multitude of factors.

What does safeguarding adults mean?

The concept of safeguarding has a specific meaning, which is outlined in the Care Act 2014 (www.legislation.gov.uk/ukpga/2014/23/contents/enacted). It is concerned with protecting a person's right to live in safety, free from abuse and neglect. The duties apply to "adults at risk", defined as any person who is aged 18 years or over and at risk of abuse or neglect because of their need for care and/or support.

"There is no definitive list of who adults at risk are, because each situation needs to be considered on its own merits"

There is no definitive list of who adults at risk are, because each situation needs to be considered on its own merits. The issue is whether there is a "need for care and/or support", not whether it is actually being provided. The nature of services provided in a particular area should not be the determining factor in deciding whether someone is an adult at risk. The fact that, in many parts of the country, an adult with an autistic spectrum disorder may not receive any services does not mean that they do not 'need' those services, and would tend to mean they are more likely to be at risk than someone who did receive services.

CASE STUDY: SAFEGUARDING VULNERABLE ADULTS

University support services become aware that there is a dispute between flatmates relating to paying bills. One student, Mark, claims that another, Sven, owes him money. Sven says that he and the other flatmates do not trust Mark with the money to pay the bills because of Mark's erratic behaviour. Mark has autistic spectrum disorder, and has been diagnosed with mental health conditions.

This may be seen as a fairly typical interpersonal dispute between students, for which the HEP can only offer advice and support to the students to help them resolve the situation as responsible adults. However, because the out-of-pocket student has an autistic spectrum disorder and mental health conditions, and this is the reason that another student is withholding the money owed to him, the situation could be seen as a set of students abusing another student because of their disability. This could be deemed a safeguarding issue with an adult at risk.

It is only when applying a proper understanding of safeguarding to the situation that the HEP support services can assess whether this is an interpersonal dispute, or if there is the possibility that financial and psychological abuse may be taking place. This shifts the primary considerations from whether there is sufficient evidence for a disciplinary case, or how to minimise disruption, to whether there is an individual who may be in need of some form of protection.

Clearly the outcomes from these different approaches could be profoundly different. Without adopting safeguarding principles a HEP is not adequately considering the needs of a disabled student. This could lead to a student not achieving their full potential, a claim of discrimination, and possibly significant harm occurring to individuals, and consequential reputational damage.

This case study example highlights the importance of HEP staff being aware of the possibility of a safeguarding issue. Staff can only decide this with a full understanding of each situation, so in this instance the HEP needs to be careful not to assume that a student with autistic spectrum disorder or a mental health condition is necessarily vulnerable.

It is far less likely that appropriate approaches will be adopted in the absence of a specific policy, backed by appropriate training. It is also somewhat unlikely that issues will come to the attention of those with designated responsibilities without some form of basic training across the HEP to ensure that appropriate referrals take place.

KEY QUESTION: has your HEP taken a strategic approach to assessing the particular risks of educating adults who may be at risk?

- I Is there adequate understanding at a corporate level of the institutional risks in relation to adult safeguarding?
- I In the absence of case law, are you satisfied that your HEP's procedures and processes (for example, Fitness to Study) adequately consider whether a student may be an adult at risk?
- I Have you considered whether safeguarding principles (for example, adults at risk) fit with your understanding of your HEP's duty of care to students?
- I Has your HEP made adequate efforts to ensure sound safeguarding principles are followed?

Safeguarding and equality

Under the Equality Act (2010), HEPs have a statutory duty to make reasonable adjustments and not to discriminate against disabled students, including those with mental health difficulties. This duty is anticipatory. Students with a disability or mental health condition may, in some circumstances, be considered adults at risk, so in these cases safeguarding and equality duties overlap.

Creating a safe and healthy environment is of relevance to establishing a culture that promotes safeguarding, and this would include ensuring that appropriate support is available for all students, including disabled students and those with mental health conditions.

“the public sector equality duty of governing bodies requires them to have due regard in particular to advance equality of opportunity for disabled people.”

Complying with the Equality Act may also require going beyond providing specialist services, to include the development of inclusive provision, and designating boards of governors as the responsible body for ensuring this happens. Furthermore, the public sector equality duty of governing bodies requires them to have due regard in particular to advance equality of opportunity for disabled people.

The specific responsibilities in this area are outlined in the Equality Act (2010) Technical Guidance on Further and Higher Education: www.equalityhumanrights.com/en/publication-download/equality-act-2010-technical-guidance-further-and-higher-education.

Guidance in this area, specifically aimed at boards of governors and senior managers, was also produced by the Disabled Student Sector Leadership Group and published by the Department for Education in 2017: www.gov.uk/government/publications/inclusive-teaching-and-learning-in-higher-education.

KEY QUESTION: have you considered approaches at a corporate level to ensure that your HEP meets its obligations under the Equality Act 2010, in line with legal and good practice guidance?

CONSIDERATIONS FOR THE FUTURE

HEPs are responsible for responding to changes in the legal and regulatory landscape. The information in this guide is correct at publication, and we hope that the suggested questions are useful regardless of future changes. However, it is worth considering what the future may hold and being prepared for how your HEP would be positioned to respond.

KEY QUESTION: who has the responsibility in your HEP to ensure that staff are aware of any future changes to safeguarding responsibility?

- I Which committee will consider how national changes (for example, implemented by OfS) may influence your HEP's safeguarding responsibilities?

If you only react to a safeguarding crisis, rather than anticipate it, you risk potential reputational damage to your HEP. Providing governors with training on safeguarding issues and planning for future scenarios may be a good investment.

Learning from other sectors

Looking at how other sectors have become subject to safeguarding legislation may be a good source of information. For example, higher education's closest counterpart, further education, is certainly subject to more stringent safeguarding responsibilities. Many HEPs will have partnerships with further education providers, so reviewing the implications of this is a good starting point.

Where HEPs have further education courses, including foundation degrees, they will be subject to Ofsted inspections. Ofsted requires education providers to have robust approaches in place in relation to safeguarding. This is the only area in an Ofsted inspection where being found inadequate will result in an automatic fail overall. This would lead to course closure and significant reputational damage, since it is likely that the general public would expect HEPs to have appropriate safeguarding approaches in place.

"The purpose of this future-oriented planning is that it enables discussion at governing body level to ensure that the HEP meets its duty of care in ensuring the welfare of its staff and student"

It is important to understand that the Ofsted requirements extend to adults at risk, not just children, and that the duties are proactive – you should not just respond to issues that come to light.

It is also worth considering safeguarding in relation to your HEP's partnerships. This may include the approach taken to school and college outreach, but also sport or cultural partnerships. Safeguarding considerations might also extend to community arts projects or leisure centre facilities that are open to the general public.

KEY QUESTION: have you given adequate consideration to any Ofsted-related requirements, or duties stemming from partnerships?

- I Will OfS want to take an Ofsted-style approach, and if so, how is your HEP positioned to respond?

The purpose of this future-oriented planning is that it enables discussion at governing body level to ensure that the HEP meets its duty of care in ensuring the welfare of its staff and students. It also suggests that HEPs may wish to consider its ethical responsibility to safeguarding children and vulnerable adults to guide design of policy, procedure and support, even if this isn't prescribed in law. Of course, it is important to do this without taking away from empowering students to have confidence in making their own decisions.

OfS is particularly concerned about outcomes for students enrolled on programmes, and requires HEPs to provide support for students to enable them to complete. That could mean a greater emphasis on welfare and having resources / services available to students to support them if, for example, they have mental ill health.

CONCLUSION

The area of safeguarding as it applies to HEPs is complex because there is no primary guidance aimed at the sector. Some HEPS may have statutory duties depending upon the nature and location of their provision, while others may not fall within the statutory guidelines. Nevertheless, HEP staff and students will face safeguarding issues, whether that is because they themselves have been subject to a safeguarding issue, or because something is reported to them. For that reason it is important for HEPs to have an understanding of the issues around safeguarding and ensure that they are equipped to deal with them should they arise.

BIOGRAPHIES



Nic Streatfield

Nic is Head of Student Services at York St John University leading a wide range of student support teams. He is Vice Chair for Professional Development of AMOSSHE, the Student Services Organisation, and represented them on a knowledge exchange to Colorado, USA in 2015. Nic's background is as a psychotherapist (he is a trained Cognitive Analytical Therapist) and he has previously worked at the University of Sheffield, University of Manchester, University of Leeds and Royal Holloway, University of London. Nic has a Masters degree in Counselling Studies from the University of Liverpool, a Postgraduate Diploma in Counselling & Human Services from La Trobe University, Melbourne, Australia and a Bachelor of Arts degree in Peace Studies from the University of Bradford. Nic also has experience of the private sector working as Operations Manager for CORE Information Management Systems and of the third sector as a board member and trustee at Mental Wealth UK (a student led charity aimed at reducing the stigma of mental health) and merged this charity with another to form Student Minds.



Mandi Barron

Mandi has over 15 years senior leadership experience in Higher Education and has held a number of different roles before being appointed to establish the new department of Student Services at Bournemouth University in 2013. At Bournemouth she has introduced an integrated approach to student support and wellbeing, bringing Professional Services, Faculties and the students' union (SUBU) together in an effort to prevent students falling through the gaps. She has also developed a range of resources to support the staff who are supporting students.

A member of the University's Leadership Team, she is sponsor/lead for a number of cross university projects and has strategic responsibility for all non-academic student services as well as student welfare and conduct.

Mandi is in her second term on the AMOSSHE Executive and represents AMOSSHE on the LFHE Prevent Reference Group and the UCEA Health & Safety Committee amongst others. She is also a member of the OIA's Higher Education Advisory Panel (HEAP)

She holds a postgraduate qualification in Strategic Management and is a Fellow of the Leadership Foundation for Higher Education and a Chartered Fellow of the Chartered Institute of Management.



Benjamin Parsons

Head of Engagement, AMOSSHE The Student Services Organisation
Benjamin manages how AMOSSHE communicates with members and develops the membership community. His work includes devising and delivering a coordinated communications strategy, keeping members up to date with news, conducting member research, and design.

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