



22/02/2019

Out-of-school settings voluntary safeguarding code of practice: NSS consultation response

Submitted by email to OOSS.consultation@education.gov.uk

1. This submission is made by the National Secular Society (NSS). The NSS is a not-for-profit non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual Human Rights, which should never be overridden on the grounds of religion, tradition or culture.
2. Out of school settings or supplementary education (OOSS) has been an important area of our work since 2011¹, and is related to our interests in:
 - Ensuring that legitimate OOSS are not used as cover for unregistered (illegal) and unaccountable faith schools.
 - Challenging institutional religious child abuse.
 - Ensuring that children's rights are not undermined on account of their or others' religion or belief.
5. Would you like us to keep your responses confidential?
 3. No.
6. Overall, is the layout of the code clear and easy to follow?
 4. Yes.
7. Is the code of practice written in an accessible way that out-of-school setting providers will be able to use?
 5. Yes.
8. Are the five sections set out in the code of practice relevant to out-of-school setting providers?
 6. Yes.

¹ <https://www.secularism.org.uk/uploads/nss-written-submissions-on-out-of-school-educationweb.pdf>

9. Does Section 1 (health and safety) set out clearly what out-of-school setting providers should do to keep children attending their settings safe from harmful practices, which could impact their physical or mental health, development, or safety?

7. Yes.

10. Does Section 2 (safeguarding and child protection, including online and digital safety) set out clearly what out-of-school setting providers should do to help ensure children's wellbeing is comprehensively addressed?

8. Yes.

11. Does Section 3 (suitability of staff and volunteers) set out clearly what procedures out-of-school settings providers should undertake when hiring and maintaining staff and volunteers?

9. No.

10. Many OOSS rely on parent or visiting volunteers on a short-term basis and so should have a policy which covers situations where it would be unnecessary or disproportionate to require a DBS check. However, it should be standard practice in all OOSS for any long term volunteer or adult tasked with supervision of children to be DBS checked.

11. Given the diversity and informal nature of the OOSS sector, advice and guidance on the appointment and recruitment of staff/volunteers may not be appropriate for all providers. However, it should be made clear that providing OOSS on a regular basis is a regulated activity and should be subject to DBS by default.

12. We believe that all OOSS providers should have a DBS by default policy and that parents/carers should be made aware of this.

12. Does Section 4 (governance) set out clearly what procedures out-of-school settings providers should undertake to help ensure strong governance of their setting?

13. Yes.

13. Does Section 5 (finance) set out clearly what procedures out-of-school settings providers should undertake to help ensure strong financial controls in their setting?

14. Yes.

14. To what extent will this code help providers deliver safeguarding in their setting?

15. The OOSS sector is extremely diverse and there will be many excellent providers who are already going above and beyond the code with their own well-developed policies, but for whom registration will provide additional validation. The code will be helpful for small OOSS providers who may need help to develop and implement good safeguarding policies.

16. While we recognise the effort that has gone into producing the code and its potential to drive improvements in the OOSS sector, we remain concerned that children's welfare will not be adequately protected, unless the code can be made mandatory and enforced where this proportionate.

17. We welcomed the government's initial proposals² to safeguard children and young people from harm, including extremism – however we continue to stress that any response should be proportionate, evidence-based and be focused through the lens of safeguarding rather than security. We also reiterated the need to strengthen and empower civil society responses to extremism and sectarianism. We are sad to see the government backtrack to a purely voluntary code, with little means of enforcement or oversight.
18. We would support a mechanism for ensuring that any out-of-school education provider could face inspection where specific concerns are raised.
19. We also believe that statutory changes are necessary, to prohibit corporal punishment in any OOSS or supplementary school and to introduce a mandatory reporting duty on providers of OOSS who have reasonable suspicions of child abuse.

15. What methods and channels would be most effective in raising awareness of the code among out-of-school settings providers?

20. A website should be set up to host the code, related guidance, examples of best practice and case studies. This material should be signposted or reproduced by all relevant local authority agencies. The Charity Commission should distribute the code and signpost this website to all registered charities whose activities are known to include OOSS.
21. Where schools provide (on a commercial or other basis) facilities for OOSS they should be encouraged to make registration and compliance with the code a requirement. Consideration should be given to the DfE encouraging or requiring this through funding agreements.
22. Where local authorities provide (on a commercial or other basis) facilities for OOSS they should be encouraged to make registration and compliance with the code a requirement.

16. What would be the most effective way of helping to ensure that the code is taken up by providers and that out-of-school settings meet the standards?

23. Many leading providers of OOSS will already have policies in place which go beyond the code. They should however still be encouraged to adopt registration and the code to increase its prestige and respect.
24. We believe voluntary registration and the accompanying advice and support should be available to all OOSS providers. However, we continue to believe that registration and a proportionate means of oversight should be required by OOSS providers that meet a certain threshold. The exact threshold should be open to consultation, but as a starting point we suggest any OOSS that meets any of the following criteria should be required to register:
 - Is a registered charity whose charitable objectives include providing OOSS.
 - Regularly (meaning 6 or more hours in a typical week) provides OOSS for 6 or more children.
 - Conducts nights away.
 - It is specifically or principally designed to supplement elective home education.
25. At a minimum any OOSS meeting any of those three criteria (drawn from the government's initial proposals) should have a publish child safeguarding policy and procedure for reporting abuse.

² <https://www.secularism.org.uk/uploads/nss-written-submissions-on-out-of-school-educationweb.pdf>

26. The principle should also be that the more 'school like' an institution is, the more school like its oversight should be. No OOSSS should be a child's primary education provider.
27. The Charity Commission should give consideration as to where failure to register and uphold the code may be inconsistent with OOSS' charitable objectives.

17. Do you have any other comments on the providers' code of practice?

28. Local authorities have a statutory role under the Children Acts (1989 and 2004) and the Counter Terrorism and Security Act (2015) in protecting children's welfare in OOSS. The providers' voluntary code of practice should serve as a guide for local authorities where safeguarding concerns are raised. Funding should be available for local authorities to make better use of their existing powers to take a robust but evidence based approach to concerns.
29. Local authorities should take action whenever an OOSS is found to be providing an unregistered school, or to be a risk to children's welfare. Consideration should be given to any statutory changes necessary to give local authorities (where it is necessary and proportionate) the explicit power to close OOSS or the require their registration, when appropriate.

18. Are the questions and example answers for parents and carers clear and easy to understand?

30. Yes.

19. Are the questions and example answers for parents and carers right and sufficient?

31. We welcome the guidance and these questions are a good start for equipping parents and carers to ask the right questions. However, the reality is that the OOSS/supplementary sector is so diverse that this guide can only serve as a starting point. We suggest that supplementary guides are produced for subsectors.

20. Is the guidance presented in an accessible way that parents and carers will be able to use?

32. Yes.

21. To what extent will this guidance help parents' and carers' decision making about which OOSS they choose for their children?

33. Empowering parents and carers is key to improving safeguarding and quality within OOSS. There needs to be more information for them on how to raise concerns and who they should speak to for independent advice.

22. What methods and channels would be most effective in raising awareness of the guidance among parents and carers?

34. We believe this should be left largely up to local authorities, given their current statutory duties. Leading providers of OOSS should be encouraged to make the guidance available. Schools should signpost to the guidance on their websites and in newsletters before school holidays.
35. Local authorities should also provide the guidance in an information pack for elective home education (EHE) families.

23. Do you have any other comments on the guidance for parents and carers?

36. The guidance should make clear to parents that OOSS are not an alternative to education. It should include information on their duty to ensure their children are receiving suitable education and on how to recognise when an OOSS is actually an unregistered (illegal) school.

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