



**David Johnston OBE MP**

Minister for Children, Families and Wellbeing

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David Pojur  
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**3<sup>rd</sup> May 2024**

Dear Mr Pojur,

## **RESPONSE TO REGULATION 28 REPORT TO PREVENT FUTURE DEATHS**

1. This is the Department for Education's (DfE) response to the Regulation 28 Report to Prevent Future Deaths dated 22 February 2024. The report was issued following the third inquest into the death of Benjamin Leonard (referred to as Ben, in accordance with his family's statements), who fell from a cliff during a Scout Association trip in 2018.
2. We want to begin by expressing our deepest condolences to Ben's family and acknowledge the tragic nature of this incident. We appreciate that this is a serious and sensitive issue, which has been the cause of significant hurt and distress to those affected.
3. In that light, we would also like to thank you for your report, allowing us sufficient time to fully address these important issues, and your efforts to conclude the third inquest. The information provided by the report is vital in the Department's consideration of a long-term strategy to better safeguard children.

## Matters of Concern

1. Your report references a request from the Leonard family for the establishment of a Public Inquiry (be it statutory under the Inquiries Act 2005, or non-statutory) into the Scout Association. In their submission to you, the family suggest that the matters of concern raised through the inquest process, point to systemic safety and safeguarding issues, warranting the urgent need for the establishment of a Public Inquiry. Your report also outlines several other matters of concern for the relevant Minister to consider.
2. The **MATTERS OF CONCERN**, as you outline them, are as follows:
  - a. **The culture of candour and independent inspection** – the lack of a culture of candour within the Scout Association, impacting on safety and safeguarding; and the absence of a robust regulator to independently and periodically audit and inspect the systems, processes and training of the Scout Association, including the granting of permits for activities (overnight and otherwise).
  - b. **Fatal Accident Inquiry Panel Investigation Report (FAIP)** – the timely commissioning, completion, and implementation of recommendations from this internal Scout Association process.
  - c. **Safety Training** – the quality of online training used to equip leaders with a sufficient understanding of risk assessments to keep Scouts safe.
  - d. **Restricted Duties** – that the relevant Scout leaders were not subject to restricted duties immediately following Ben’s death; and when restrictions were issued there was a lack of clarity as to whether these related to the individuals or to specific activities.
  - e. **Absence of Safeguarding and Safety Compliance** – in relation to presence of over 18s on the trip, who were not listed as adults on the Nights Away Notification, nor subject to DBS checks, and a general lack of understanding of safety and safeguarding training.
  - f. **Monitoring, Auditing and Reliance on Volunteer Line and the need for paid trainers** – regarding the quality of systems for analysis, reporting and clarity of responsibilities regarding compliance and timelines for training, inductions, appointment to roles and the granting of permits.
  - g. **Delays in Training** – a lack of sanctions for missed deadlines for mandatory Scout Association training by staff, shortages of local training managers, and statistical data showing significant numbers of roles with over-due training requirements.
  - h. **First Aid Kits** – the absence of a first aid kit, and requisite planning for one during the Great Orme trip, issues with the quality of guidance regarding first aid kits on the Scout Association website, and a need to ensure first aid kits were available on every trip and at Scout huts,

including containing essential items like tourniquets, to enable immediate life-saving treatment.

- i. **First Aid Self-Certification** – regarding learners being able to self-certify completion of further Scout Association first aid training, without checks or assessments for verification, and, despite reported improvements, prevailing concerns about the robustness of the system.
- j. **Autonomous Charities** – the Scout Association's layers of hierarchy creating a disconnect between national staff and local clubs, as to the execution of health and safety. For example, having centralised safeguarding and safety training/policies, yet accountability for these areas being deferred to individual charities (i.e. local clubs and groups).
- k. **Permit / Licencing Schemes** – the absence of a robust system for ensuring permit holders (granted the Nights Away Permit) responsible for children's safety were suitably qualified, in addition to unclear permit requirements for activities outside regular Scout meeting places.

### **Scope of Departmental Response, Definitions and Divisions of Responsibility**

3. This response sets out the Department's current position and further steps that will be taken by Government to strengthen safeguarding of children and young people, including in Out-of-School settings and charities such as Scout clubs and activities.
4. 'Out-of-School settings' is a term the department uses to describe a range of organisations (both commercial and charitable) or individuals that provide tuition, training, instruction, or activities to children and young people<sup>1</sup> in England<sup>2</sup>. They exclude activities with parental supervision, and regulated education and childcare settings (i.e. schools, colleges, alternative provision arranged by schools or local authorities, and childcare providers registered with Ofsted).
5. It is also helpful, for the purpose of this response, to clarify the divisions of responsibility, relevant powers and responsible bodies within government regarding child protection and safeguarding, in so far as they relate to the Scout Association and its Scout clubs.
  - a. The Department for Education (DfE) has national policy responsibility for the overarching framework for child protection and safeguarding, which is overseen by local authorities as set out in the Children Act 1989 and associated legislation. This includes the policy remit for Out-of-School Settings safeguarding, and DfE offers extensive guidance for providers and parents on these issues. DfE also has responsibility for the multi-

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<sup>1</sup> "children" and "young people" are defined in this response as "people who have not yet reached their 18th birthday". This follows the definition in the Children Act 1989, where a child is defined as 'a person under the age of 18'.

<sup>2</sup> Education in the United Kingdom is devolved with each nation operating separate systems.

agency guidance on safeguarding, [Working Together to Safeguard Children \(2023\)](#) and [Keeping Children Safe in Education](#).

- b. The Department for Culture, Media and Sport (DCMS) is responsible for 'civil society' policy and have specific policy responsibilities relating to young people, volunteering, social enterprises, social investment and public service mutuals in England<sup>3</sup>. It is also responsible for policy relating to charities, in relation to which the legal framework also extends to Wales. DCMS sponsors the Charity Commission for England and Wales (hereafter 'the Charity Commission'). The Charity Commission is a non-ministerial department which registers charities in England and Wales and regulates their compliance with charity law. The Charity Commission's independence from Ministerial or Departmental direction or control is set in statute. DCMS also leads on non-statutory youth services and positive activities for young people outside of school settings in England (such as the Scout Association). As part of these responsibilities, they have funded activity to provide safeguarding resources for all domestic charities, and improved safeguarding training for specific areas related to youth work practice. DCMS does not have responsibility for setting or monitoring standards of child protection.
6. Finally, we would note that various matters identified in your report concern the internal structure and workings of the Scout Association (for example their internal FAIP process). Where feasible, we have sought to address all matters of concern, but unfortunately we cannot comment on the internal set-up and structure of individual organisations, or charities in the case of the Scout Association. We understand that the Scout Association will provide a response to your report which we expect will address these issues. Similarly, we understand that the Charity Commission will provide a response which we expect will address matters relating to charity trustees' legal duties and responsibilities in managing their charity.

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<sup>3</sup> As the DCMS was not named in your report, DfE sought contributions where their policy remit is relevant to the matters of concern identified.

## **Department for Education Response**

1. The Government takes the safeguarding of all children very seriously. We are committed to protecting children from harm across all settings, including Out-of-School Settings and charities such as Scout Association clubs and expeditions. There are legal duties and supporting powers in place to protect children in these settings, and we expect relevant regulators (such as the Charity Commission), local authorities and police to use them as necessary when duties are not met.
2. We have set out the most relevant legal duties, guidance and best practice below, which directly address many of the coroner's matters of concern. We strongly encourage out-of-school settings, such as The Scout Association, to follow our safeguarding guidance for providers. The DfE has also extensive wider safeguarding guidance for working with children, such as [Keeping Children Safe in Education](#), and the [Working Together to Safeguard Children](#), which may be useful to refer to for best practice. We expand on the full extent of existing guidance in Annex B, with specific advice addressing matters of concern on point-by-point basis in Annex C.
3. The Charity Commission is the registrar and regulator of charities in England and Wales. Elaborating on the above Division of Responsibilities, the Charity Commission are an independent, non-ministerial government department accountable to Parliament and, for the exercise of their powers, to the Tribunal and the courts.
4. Through the Charities Act 2011 ('the 2011 Act') – which sets out the Charity Commission's statutory duties and functions – and relevant case law, it already has a strong regulatory framework to help ensure trustees comply with their legal duties and responsibilities in managing a charity. All charity trustees, whether for a national organisation or local clubs, have legal duties including a duty of care to safeguard those who come into contact with the charity and its work. A charity should be a safe and trusted environment.

### Specific powers

5. There are a wide range of regulatory powers at the Charity Commission's disposal. Before any use of these powers the Charity Commission assesses concerns against its Regulatory and Risk Framework, to ensure it makes proportionate and targeted use of its resources when addressing issues of concern.
6. The Charity Commission has the power to identify, investigate and take action regarding apparent misconduct or mismanagement in the administration of charities. It may also conduct inquiries with regards to charities, either generally or for particular purposes. The Charity Commission may open an inquiry at the

same time as another agency or regulator. The supporting guidance states that the aim of an inquiry is to:

- a. identify the extent, if any, of misconduct and/or mismanagement in the administration of the charity;
- b. assess any risk to the charity and its assets;
- c. and decide whether the Commission needs to act to protect the property of the charity.

It further states that misconduct includes any act, or failure to act, that the person committing it knew, or ought to have known, was criminal, unlawful or improper.

7. Specifically, section 47 of the 2011 Act details some of the Charity Commission's investigative powers available for use during a statutory inquiry. These include the power to direct any person to:
  - a. provide the Commission with accounts and statements in writing on the matters under investigation;
  - b. return to the Commission answers in writing to any questions or inquiries addressed to them, and to verify any accounts, statements or answers by statutory declaration;
  - c. provide copies of documents in their custody or under their control relating to the matter being investigated and to verify any copies by statutory declaration; or
  - d. attend at a specified time and place and give evidence or produce any documents.
  - e. provide evidence on oath or make a declaration of truth.
8. In practical terms, under section 47 of the 2011 Act, the Charity Commission has the power to obtain, evaluate and disseminate information in connection with the performance of any charity. In addition, with a warrant (as per sections 48 and 49 of the 2011 Act), a member of the Commission's staff can enter and search premises, take possessions or documents, take a computer disk or other electronic storage devices, to take copies of documents. In specific circumstances (as per section 84 of the 2011 Act) the Charity Commission also has the power to close charity services, such as educational classes and recreational activities.
9. Specifically in a safeguarding context, the Charity Commission has a regulatory role focused on the conduct of trustees and steps taken to protect beneficiaries, employees, volunteers and others who come into contact with the charity through its work. As part of their legal duties, trustees of a charity must take reasonable steps to protect from harm people who come into contact with their charity.
10. As set out in the Charity Commission's 'How to report a serious incident in your charity guidance', failure by charity trustees to sufficiently manage safeguarding

risks or protect people adequately would be of serious regulatory concern and may be considered to be misconduct and/or mismanagement.

11. As a registered charity (no. 306101) the Scout Association must comply with charity law and regulation. As stated above in the Divisions of Responsibility, the Charity Commission is independent, including having a statutory requirement that it is not subject to Ministerial direction in the exercise of its functions. As such, we would not and could not seek to direct their ongoing engagement with the Scout Association. We also understand that the Charity Commission has been engaging with the Scout Association since Ben's tragic death in August 2018, following the Scout's serious incident report. As such, it is right that they will also be providing an independent response to your report and we welcome their contribution. We believe that for many of the matters of concern listed, the Scout Association's and club trustees' compliance with their legal duties is pivotal.
12. The Charity Commission's [Safeguarding and protecting people for charities and trustees](#) guidance clearly sets out that it expects all charity trustees to make sure that their charity:
  - a. knows how to spot and handle concerns in a full and open manner
  - b. has a clear system of referring or reporting to relevant agencies as soon as concerns are suspected or identified
  - c. is quick to respond to concerns and carry out appropriate investigations
  - d. does not ignore harm or downplays failures
  - e. has a balanced trustee board and does not let one trustee dominate its work – trustees should work together
  - f. makes sure protecting people from harm is central to its culture
13. We know that the Charity Commission does investigate safeguarding-related matters and ensures proper compliance with charity law as needed. The Charity Commission publicly announces the opening of statutory inquiries into charities carried out under section 46 of the Charities Act 2011. We would encourage all interested parties to review their record here - <https://www.gov.uk/government/collections/inquiry-reports-charity-commission>.
14. We would also highlight the Charity Commission's updated strategy, published in December 2017, for dealing with safeguarding issues in charities. This further outlined its regulatory role and approach in overseeing the legal duties of trustees in relation to safeguarding. In line with this strategy, we would expect the Charity Commission to use its powers to intervene where there are serious safeguarding concerns within a charity.

## **Other legislation and guidance relevant to settings such as the Scout Association**

15. As set out above in the Divisions of Responsibility, local authorities also have legal responsibilities for safeguarding and promoting the welfare of all children in their area. These include safeguarding and promoting the welfare of children in need in their area (section 17 of the Children Act 1989) and investigating where they have reasonable cause to suspect that a child has suffered, or is likely to suffer, significant harm (section 47 of the Children Act 1989).
16. There are also several other areas of legislation which govern how the local authority should work with multi-agency partners and relevant agencies, such as charities like the Scout Association and its clubs, to ensure that children are safeguarded and protected from harm. This includes:
  - a. Section 10 of the Children Act 2004 which requires each local authority to make arrangements to promote cooperation between the authority and a range of other local “relevant partners” (such as the police, schools and health services) and such other persons or bodies exercising functions or engaged in activities relating to children and considered by the local authority to be appropriate with a view to improving the well-being of children in each local authority area so far as it relates to: (a) physical and mental health and emotional well-being, (b) protection from harm and neglect, (c) education, training and recreation, (d) the contribution made by them to society and (e) social and economic well-being. Such persons or bodies could conceivably include charities, such as the Scout Association and its local clubs.
17. The Children Act 2004, as amended by the Children and Social Work Act 2017 also introduced stronger multi-agency safeguarding arrangements. Local authorities, together with the local integrated care board, and local chief officer for the police – as the three statutory safeguarding partners – have a shared and equal statutory duty to make arrangements and work together to safeguard and promote the welfare of all children in their local area. The arrangements should set out how they will coordinate their safeguarding services in a local area; act as a strategic leadership group in supporting and engaging others, and implement local and national learning, including from serious child safeguarding incidents. This would include serious incidents such as the death of a child on an excursion.
18. The purpose of these local arrangements is to support and enable organisations, charities (such as the Scout Association and its clubs) and agencies to work together in a system where children are safeguarded and their welfare promoted. The arrangements should set out how partner organisations, charities and agencies collaborate, share and co-own the vision for how to achieve improved outcomes for all vulnerable children. It is for the three safeguarding partners to



determine how these organisations and agencies will hold one another to account effectively and ensure that they listen and respond to the views of local children and their families. The safeguarding partners must publish a report at least once in every 12-month period which should set out how effective their arrangements have been in practice.

19. As set out in the Children Act 2004, these safeguarding arrangements also place a duty on “relevant agencies” to cooperate if asked to be part of local safeguarding arrangements; and where named they would have a statutory duty to comply with the arrangements. The Relevant Agencies are specified in the Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018 and includes charities within the meaning of Section 1 of the Charities Act 2011 – this would cover charities such as the Scout Association and its local clubs.
20. In addition to this, we also expect local authorities to work with a range of multi-agency partners (such as, but not limited to the Police, Charity Commission and the Health and Safety Executive) to intervene in settings of concern, which might be exposing children to, or placing them at risk of harm. Across these partners, there are several powers under which action can be taken, which we detail in our advice for unregistered schools and Out-of-School Settings - [Collaborative working between the Department for Education, Ofsted and local authorities](#).
21. Beyond the role and powers of local authorities and multi-agency partners, all Out-of-School Settings also have a common law duty of care to protect the safety and welfare of children, and therefore must by law take reasonable steps to ensure the safety of children in their care and protect them from harm. It is also relevant to note that these settings are also subject to the Safeguarding Vulnerable Groups Act 2006 which makes it an offence to knowingly employ someone in 'regulated activity' if the employer has reason to believe they are barred from working with children. We have published dedicated [guidance](#) to support them in meeting these duties.
22. Similarly, the Scout Association is part of the Youth Sector, where substantial guidance and training has been provided by the National Youth Agency (NYA), funded by the Department for Culture Media and Sport.

#### Further measures to strengthen safeguarding within the sector

23. The Government is committed to ensuring all settings, including Out-of-School Settings and charities such as Scout clubs, are as safe as possible and have been progressing a programme of safeguarding work with this aim in mind.
24. Recent work on Out-of-School safeguarding has included:

- a. Provision of over £3 million funding to selected local authorities, between 2018 to end of 2021, to run a series of multi-agency pilots aimed at boosting local capacity to identify and intervene in settings of concern; and building the evidence based on the extent of risks in the sector, and the utility of relevant agencies' existing legal powers to conduct safeguarding activity in these settings. Despite the pandemic disrupting many settings, the outputs from this work (an [independent evaluation report](#) published November 2022) can still be used to help inform the need for, and development of, any national approaches to further strengthen safeguarding and oversight.
- b. Dedicated workstreams to support the sector's understanding of how to run a safe setting, and their wider understanding of expected safeguarding standards (through the development of a [safeguarding code of practice](#))
- c. Development of [parental safeguarding guidance](#) on Out-of-School Settings, to help parents both make informed choices when seeking safe settings for their children, and to know what to do if they do have concerns.
- d. An ongoing review of existing [guidance for local authorities and multi-agency partners on safeguarding](#) in Out-of-School Settings, to share best practice from the pilots, and to ensure local authorities are fully utilising both theirs and multi-agency partners' powers to identify and intervene in settings of concern.

25. We have also maintained an ongoing dialogue with sector representatives and safeguarding partners on safeguarding in Out-of-School Settings using this to inform ongoing reviews and updates to existing guidance. Following the conclusion of the pilot programme and culminating evaluation report, we have also been working closely with these stakeholders on the development of potential options for further enhancing safeguarding and oversight, to help inform our upcoming Call for Evidence.

### Existing Work on Regulatory Models

26. In addition, and at times as part of, the programmes above, we have continually considered and assessed the case for further regulation, and practicalities of any future system.

27. Specifically, in November 2015, we [consulted on a proposed model of regulation for Out-of-School Settings](#), based on registration and risk-based inspection<sup>4</sup>. However, the strong negative feedback received from respondents, including that the proposed model risked placing unnecessary burdens on the many settings already providing enriching education and activities in a safe environment,

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<sup>4</sup> This was published in 2015, with a Government response in 2018.

limiting parents' choices on how they educate their children, as well as suggestions that existing legal powers were sufficient to intervene and take action in Out-of-School Settings of concern.

- a. This included the wide range of legal powers held by the Charity Commission, as referenced above. In particular their powers to intervene where Trustees are not complying with their safeguarding duties.

28. The Government took the decision not to proceed with the proposed model of regulation, and to instead progress an alternative package of safeguarding measures aimed at enhancing safeguarding of children in this diverse sector.

29. While we have not ruled out further regulation of the sector, it is imperative that any system of regulation is proportionate, complements, and builds on existing legal powers.

30. As part of our ongoing work to ensure these settings are as safe as possible, we have therefore been working closely with safeguarding partners, sector representatives, and parent groups on the development of potential options for further enhancing safety of the out-of-school settings sector, with the intention of launching a call for evidence this summer.

#### Wider Work across Government sector

31. Government also funds the NYA to provide generic safeguarding resources available to domestic charities, and to renew the youth work curriculum and qualifications, including updated safeguarding training tailored specifically towards the youth work sector.

32. In 2018-2020 DCMS partnered with the charity sector on a Charity Safeguarding Programme to drive activity through a comprehensive cross-sector programme of projects.

33. The programme focussed on improving the generic guidance and support available to all charities whatever their size or sector of interest to ensure that basic standards were clearly set and communicated, including to:

- a. Provide charities with clear, consistent and easily accessible guidance and reporting processes
- b. Create the right culture in charities as the foundation for effective handling of safeguarding incidents, promoting strong leadership and challenging poor practice to change behaviour
- c. Provide digital solutions giving simple and accessible ways for anyone to report a concern to the right person at the right time
- d. Provide access to training, support and advice in one place that is free, accessible and sets a basic standard.

34. A fuller overview of our historical and ongoing work with the sector, and actions to improve standards, is set out in Annex A.

### Request for a Public Inquiry

35. We recognise the specific call to action within the report and families' public statements – seeking a public inquiry – and share that desire for improved standards to come from Ben's tragic death. Whilst a public inquiry could help draw out unacceptable safeguarding practices and the impact on those affected, we believe it would not be the best route to meaningful change.

36. Our planned Call for Evidence, expected to launch this summer, would better serve any need to address systemic safeguarding or safety issues in the sector, and progress options for effective and proportionate safeguarding reform.

- a. Given our commitment to ensure these settings are as safe as possible, we are keen to seek the widest possible range of views, as swiftly as possible, regarding options for strengthening safeguarding and oversight of the sector.
- b. However, any inquiry would likely be of a significant length and cost, with legislative requirements (and so probable further delays) if on a statutory basis. This may also delay or place resourcing pressures on ongoing work to evaluate and take forward any policy options for longer-term safeguarding reform.

37. We will carefully consider this report as crucial to the development of our Call for Evidence, given the many helpful insights into where further measures may be needed. We strongly encourage yourself and all interested parties to contribute to this upon launch. Ben's tragic death has redoubled the Government's commitment to improving safeguarding standards in Out-of-School Settings.

### Specific matters of concern

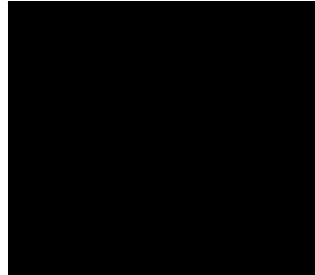
38. As referenced above, we cannot comment on the internal workings and structure of the Scout Association, or their implementation of internal policies and procedures. However, we have tried within Annex B and C, to address each matter of concern identified in your report. We hope this clearly sets out the current government position and guidance on these important issues. We would be very happy to discuss any particular issue further as and if needed.

39. We will also be giving consideration, as part of our regular review and refreshment of DfE guidance, to any points which could be strengthened further in light of your report, or where we could seek to further improve signposting to

wider legislation or other government guidance relevant to the matters of concern identified.

40. Finally, we would again thank you for giving us the opportunity to respond and express our condolences to the family and friends of Ben Leonard.

Yours sincerely,



**David Johnston OBE MP**  
**Minister for Children, Families and Wellbeing**

## **ANNEX A: Department for Education’s Historical and Ongoing Action on Out-of-School Settings**

1. In November 2015, the DfE published a [Call for Evidence](#) concerning specific proposals to introduce a new regulatory system of registration and inspection in Out-of-School Settings. This would have required Out-of-School Settings providing ‘intensive education’<sup>5</sup>, to register with their local authority and be subject to risk-based inspections by Ofsted. It would also have enabled intervention and sanctions (e.g. barring individuals from working with children, or closure of premises), as appropriate where settings were found to be undertaking ‘prohibited activities’<sup>6</sup>.
2. We received significant interest with over 18,000 responses, three-quarters of which were opposed to proposals exploring a mandatory registration system and sector regulation. Concerns included: fears of potential impact on religious freedoms, the significant burden on smaller and voluntary-run providers, a lack of consensus and clarity about the level for a prospective threshold for mandatory registration, and a belief that existing safeguarding legislation was sufficient.
3. Therefore, the [Government response](#) (published April 2018) confirmed our intention not to pursue the model proposed, but instead build the evidence base for a national approach, whilst taking forward a significant package of measures aimed at enhancing the safeguarding of children in this diverse sector.
4. This package included the development of a new safeguarding code of practice for Out-of-School Settings, published in October 2020; and the provision of over £3 million of targeted funding to selected local authorities, between Autumn 2018 and December 2021, aimed at building local capacity to identify and tackle settings of concern. The intention of these pilots was to test:
  - a. different approaches to multi-agency working to support safeguarding practices in Out-of-School Settings; and
  - b. the utility of existing legal powers held by local authorities and held by relevant agencies (such as the Police, local Fire and Rescue Services, the Charity Commission for England and Wales, and Ofsted) to identify and intervene in settings of concern.
5. These multi-agency pilots were subject to an independent evaluation, the outcome of which was an [independent report](#) (published November 2022). This report demonstrated the benefits of improved multi-agency working between local

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<sup>5</sup> The call for evidence suggested a threshold could be set around 6-8 hours per week. Though some respondents highlighted that the nature of the activity should also be considered.

<sup>6</sup> The prohibited activities were focused around areas designed to keep children safe and promote their welfare, such as: failure to adequately ensure the safety of the children in their care, including accommodating children in unsafe premises; appointment of unsuitable staff; undesirable teaching; and corporal punishment).

authorities and relevant agencies, including community-based organisations such as charities, and how existing legal powers can be best used alongside community engagement and outreach to address safeguarding concerns. However, it further identified important safeguarding risks in some settings.

6. In recognition of the seriousness of those risks, the department committed to taking forward further safeguarding activity and interventions aimed at raising safeguarding standards in these settings in both the immediate and longer-term.
7. Immediate measures to tackle these issues have included:
  - a. As referenced above, the publication of [guidance for providers](#) and [guidance for parents and carers](#) in October 2020, with a major update in September 2023. This set out the safeguarding standards providers are expected to meet, supported them to fulfil their duty of care and helped parents make informed choices when choosing settings for their children.
  - b. An accompanying, free-to-access e-learning package, will shortly launch which complements the guidance and helps make it accessible for all providers.
  - c. An ongoing review of existing guidance for local authorities on safeguarding in Out-of-School Settings. This will help ensure they are fully utilising their existing legal powers (e.g. child protection legislation, health and safety, etc.) alongside those of multi-agency partners (e.g. the Police, Ofsted, Fire and Rescue, etc.), to identify and intervene in settings of concern.
  - d. Extensive and continuous engagement with key stakeholders across the sector to discuss, refine and spread safeguarding best practice. This has included engagement through our dedicated departmental steering groups with representatives from the Out-of-School Settings sector, local authorities and other safeguarding partners.
8. Alongside this, the department has been working closely with sector representatives, safeguarding partners and parents on the development of potential longer-term options to ensure these settings are as safe as possible, and parents feel confident that they are sending their children to safe settings.
9. This engagement has reinforced our understanding that there is not a single, simple solution for improving standards in the sector. However, alongside previous research with parental focus groups, it does strongly suggest that further parental engagement is vital to any solution. As such, the upcoming Call for Evidence will seek to understand parents' and provider's safeguarding priorities, tested against a range of prospective long-term options for improving sector standards.

10. It will seek views from parents, carers, providers, local authorities, safeguarding partners and other interested individuals and organisations on existing expectations for safeguarding standards in Out-of-School Settings, as well as potential options for strengthening safeguarding further. We aim to learn more about how respondents currently assure themselves, or provide assurances, as to a setting's safety; any challenges to doing so; and what further support or action may be needed to make these settings as safe as possible. We will further utilise focus groups to enhance parental engagement and gain deeper insight into parents' roles in checking settings for their children.



## **ANNEX B: Relevant Guidance from Government and Government Partners**

1. This annex aims to highlight key guidance from Government and trusted safeguarding partners, broadly relevant to the issues raised. The examples below do not constitute an exhaustive list, nor cover every example used in Annex C below. However, they are intended to demonstrate the extensive support available to help those who seek advice for best practice in safeguarding and safety.

### Department for Education Guidance

2. The Department provides guidance to support Out-of-School Settings in their discharging their legal duty of care to ensure the safety of children attending their settings and protect them from harm.
  - a. First published in October 2020, the safeguarding [guidance for providers](#) and accompanying [guidance for parents](#) have recently been updated in September 2023 to reflect key changes to legislation and statutory guidance, as well as learnings from the Out-of-School Settings multi-agency pilot programme.
  - b. The guidance for parents is intended to help them make informed choices about settings they are choosing for their children, and includes red flags to look out for, as well as the steps they should take where they have concerns.
  - c. The guidance for providers will also be accompanied by a free-to-access e-learning package, shortly due to launch, to help make the guidance accessible for all providers and support their understanding of safeguarding obligations, and the standards they would be expected to meet.
3. Beyond this, the Out-of-School Settings guidance also references relevant resources such as [Keeping Children Safe in Education](#), [Health and Safety on Educational Visits](#), (both of which are statutory guidance for schools and colleges) and statutory guidance [Working Together to Safeguard Children](#).
4. In particular, the [Working Together to Safeguard Children](#) statutory guidance, revised in December 2023, clarifies the roles and responsibilities of safeguarding partners (police, health, and local authorities) and relevant agencies.
  - a. It sets out the legislative requirements which apply to individuals, organisations, and agencies, as well as a framework for safeguarding partners and relevant agencies to work together in their local area.
  - b. In relation to voluntary, charity or social enterprise (VCSE) organisation (which would include Out-of-School Settings), and so also the Scout Association, the guidance recommends that these organisations should be aware of and comply with the published arrangements set out by the local safeguarding partners policies in place to safeguard and protect children from harm, as well as systems to ensure compliance.

#### Department for Culture Media and Sport Charity Safeguarding Programme

5. Through the Charity Safeguarding Programme (2018-2020) DCMS supported and worked with the Commission to provide clear, consistent and easily accessible guidance and reporting processes as follows:
  - a. Safeguarding and protecting people for charities and trustees
  - b. How to report a serious incident in your charity
  - c. Report serious wrongdoing at a charity as a worker or volunteer
  
6. DCMS funding also supported the National Council for Voluntary Organisations (NCVO) and a range of safeguarding expert charities to develop safeguarding help and guidance including access to training support. In partnership with the National Lottery Community Fund, a Safeguarding Training Fund, was launched in October 2019, which disseminated the training and guidance materials through charity networks across England.
  
7. [DCMS guidance to help charities in England to handle the reporting of safeguarding issues](#) in their charity was also published (please note, **this is currently offline whilst it is being updated, but is expected to be back online in May**).

#### Cross-Government standards and requirements for funding

8. The Government [Code of conduct for suppliers and grant recipients](#) clearly sets out the behaviours expected of suppliers delivering services on behalf of, and grantees receiving funding from, the Government. This includes behaviours expected when interacting with vulnerable groups, such as children and young people.
  
9. DfE and the DCMS further build on this, by placing a priority on the importance of safeguarding and protecting the wellbeing of children and young people in any awarding of funding. We are committed to the active application of safeguarding policies and practices, throughout our supply chains. Therefore, our suppliers and grant recipients must meet minimum safeguarding standards and comply with relevant guidance, as a condition of our funding.
  - a. Grantees must confirm and provide evidence:
    - i. that the organisation provides a safe and trusted environment which safeguards anyone who the organisation has contact with, including customers, service users, staff and volunteers;
    - ii. that the organisational culture prioritises safeguarding, so that it is safe for those affected to come forward, and to report incidents and concerns with the assurance that they will be handled sensitively and properly;

- iii. that the organisation has adequate governance structures, safeguarding policies, procedures and measures to protect people and these are shared and understood; and
- iv. that the organisation has clear processes on how incidents and allegations will be handled should they arise, including reporting to the relevant authorities.

10. As such, where any Out-of-School Setting has or will benefit from Government funding, they should be aware of the importance of, and need to, meet these requirements. As the Scout Association has previously been a recipient of Government grant funding and is currently receiving funding from DCMS, they should be aware of the above standards.

### The Charity Commission for England and Wales

11. The Charities Act 2011 sets out the Charity Commission's statutory duties and functions. It has an important regulatory role, with a range of powers to ensure that charity trustees comply with their legal duties and responsibilities in managing their charity.
12. The Charity Commission published an updated [strategy for dealing with safeguarding issues in charities](#) in December 2017, outlining its regulatory role and approach, and the legal duties of trustees in relation to safeguarding.
13. Further detail is available in the Charity Commission's published guidance on [Safeguarding and protecting people for charities and trustees](#), which covers charity and trustees duties in this area, as well as [NCVO Safeguarding Resources](#); and DCMS's [Guidance on handling safeguarding concerns or allegations in a charity](#) (again, please note this is currently offline and due to be live in May 2024, as mentioned above).

### Youth Sector Guidance – The National Youth Agency (NYA) and Department for Culture, Media and Sport (DCMS)

14. DCMS provide funding to the National Youth Agency, the national body for youth work, and the Professional Statutory Regulatory Body for youth work in England to ensure up-to-date, appropriate standards are in place for youth work.
- a. DCMS currently provides NYA with funding to carry out their core functions: delivery of youth work qualifications, maintaining a youth work and youth services registry, and provision of safeguarding support.
15. DCMS has further funded the NYA to develop their [Safeguarding and Risk Management Hub](#), freely accessible via their website, and promoted via NYA's social media, Youth Work One, and during face to face and online events. This helps to promote good practice across the youth sector by providing safeguarding guidance, support, advice, and access to training resources.

- a. Through DCMS funding, the NYA has appointed an external risk management specialist: Pharos, which supports the creation of resources hosted on the hub.
- b. The NYA run trainings at a discounted rate to the sector – bespoke to youth work delivery (i.e. Risk Assessments for the Youth Sector and Offsite Safety Management). The Risk Assessment training supports workers who are responsible for either writing risk assessments or approving those written by colleagues or perhaps external providers they work with.

#### Wider Relevant Guidance

16. Finally, it is also worth noting that the Department for Health and Social Care and the DfE jointly published the '[Child Death Review Statutory and Operational Guidance for England](#)' in October 2019, advising NHS Trusts on how they should support, communicate and engage with families following the death of someone in their care.

- a. This is not targeted at, nor compulsory for, Out-of-School Settings such as the Scout Association. However, it may still be useful to reference and consider for best practice in a similar circumstance.

## **ANNEX C – Examples of Guidance Specifically Relevant to Concerns Raised**

1. This annex aims to highlight exemplar guidance from Government and trusted safeguarding partners, directly relevant to the specific issues raised. Whilst the examples do not constitute a comprehensive response or solution to the concerns raised, they do demonstrate the extensive support available to help those who seek best practice advice in safeguarding and safety.
2. Beyond these examples, there are also resources within guidance, which may also prove useful, but are not easily quotable here.
  - a. For example, the [DfE guidance for Out-of-School Settings providers](#) also points to a checklist document, covering minimum safeguarding arrangements that all providers should have in place, to ensure the safety of children and protect them from harm. It specifically covers best practice on safeguarding and child protection, suitability of staff and volunteers, health and safety, governance, as well as other areas for consideration, such as educational visits and overnight stays.

**The culture of candour and independent inspection** – DfE, Charity Commission and internal commercial guidance for Government which sets out responsibilities for candour, oversight and reporting incidents.

3. In its [guidance on safeguarding and protecting people for charities and trustees](#) the Charity Commission expects all charity trustees to ensure that their charity:
  - a. knows how to spot and handle concerns in a full and open manner
  - b. has a clear system of referring or reporting to relevant agencies as soon as concerns are suspected or identified
  - c. is quick to respond to concerns and carry out appropriate investigations
  - d. does not ignore harm or downplays failures
  - e. has a balanced trustee board and does not let one trustee dominate its work – trustees should work together
  - f. makes sure protecting people from harm is central to its culture
4. Page 128 [DfE Working together guidance](#) – Working Together notes that VCSE organisations (which cover Out-of-School Settings) may be subject to charity law and regulated either by the Charity Commission and/or other ‘principal’ regulators. Charity trustees are responsible for ensuring that those benefiting from, or working with, their charity, are not harmed in any way through contact with it.
5. Page 145 [DfE Working together guidance](#) – sets out the framework for local responsible bodies regarding making arrangements to review child deaths. ‘When a child dies, in any circumstances, it is important for parents and families to understand what has happened and whether there are any lessons to be learnt. The responsibility for ensuring child death reviews are carried out is held by ‘child

death review partners', who, in relation to a local authority area in England, are defined as the local authority for that area and any integrated care boards operating in the local authority area.'

**Fatal Accident Inquiry Panel Investigation Report (FAIP)** – Health and Safety Executive (HSE), DfE, Department of Health and Social Care (DHSC) and NYA guidance covering reporting duties, best practice when making reports and during reviews/inquiries, as well as wider advice for critical incidents.

6. Amongst wider information and guidance available on their website, the [Health and Safety Executive Guidance](#) on Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR 2013) states – 'Fatal accidents arising out of, or in connection with, work requiring reporting under RIDDOR. The requirement to report fatal accidents to persons not at work (children, members of the public, etc) is the responsibility of the person who for the purpose of a work-related activity was in control of the premises where the accident happened.'
7. Page 27 [Child Death Review Guidance](#) - makes it clear that the family should be assigned a key worker to act as a single point of contact for the bereaved family, who they can turn to for information and who can signpost them to sources of support. It is the duty of the key worker to ensure that there is clarity regarding information and support.
8. Page 38 [Child Death Review Guidance](#) - makes it clear that the family of the child should be given the opportunity to raise concerns about the care that their child received. These concerns should be picked up and addressed at the local review meeting, with feedback provided to the family by their key worker.
9. Page 2 [NYA Incident Reporting guidance](#) – 'It is good practice to report all near misses as well as all accidents that result in harm... Reporting helps to identify problem areas, raises awareness of hazards and risk, and helps organisations and workers to make informed decisions and take effective preventive or corrective actions to help prevent similar or more serious incidents from reoccurring... Incident reporting practice should promote a culture of thorough, timely and accurate reporting, and must ensure that relevant workers are adequately trained in the incident reporting procedure defined by the organisation. Most organisations produce an incident report template for workers and copies of this should be provided to workers who are delivering offsite activity.'
10. Page 2 [NYA Incident Reporting guidance](#) - When reporting incidents, only factual information should be provided, including as much detail about the incident as possible. Workers should make an accurate record of the incident as soon as possible to help safeguard against memory fade. Workers should complete their

organisation's incident reporting form, or if not immediately available make notes to report formally later. The following information should be recorded as applicable:

- a. Time and date of the incident
- b. Incident location (be as accurate as possible)
- c. A detailed description of what happened
- d. Who was involved and details of any injuries
- e. Names of any other uninjured parties
- f. Relevant environmental information (e.g. weather, ground/water conditions)
- g. Actions taken, including all communications
- h. Details of any moves from the incident site (times, who moved, where to, how)
- i. Names and contact details of witnesses
- j. Any other useful information such as the registration numbers of any motor vehicles involved
- k. Proposed actions to follow

11. Page 7 [NYA Critical incident response guidance](#) - 'All incidents should be reported and organisations should have a robust system in place to promote a culture of reporting and incident review. Following a critical incident, a full review/investigation should be undertaken to establish the cause(s) and the full facts surrounding the incident. A robust process to identify all lessons learned and ensure practical application into future practice should be implemented...'

**Safety training** – DfE, Charity Commission and NYA guidance offering best practice, examples of training, a suitable approach to risk assessments and wider safety advice.

12. Page 35 [DfE guidance for providers](#) – A competent person should 'differentiate between regular activities and special events, (including trips) which will need a case-by-case risk assessment.'

13. The Charity Commission sets out guidance for Trustees on how to [Manage the Risk](#) – 'expect all trustees to make sure that their charity:  
a. sets out identified risks and how they will be managed in a risk register which is regularly reviewed'

14. Page 2 [NYA Critical Incident Response guidance](#) - 'Critical incident response should be considered for all youth work activities, programmes and services – response procedures should be written down and effectively communicated to all workers... Young people should be aware of key elements of procedures such as how to contact workers or raise the alarm'.



15. Page 3 [NYA Critical Incident Response guidance](#) - As part of effective planning for any youth work programme, a clear plan should be established which takes into account both routine and emergency communications... In the event of a critical incident, organisations must ensure that an effective communications system is in place that will allow the organisation to reliably and swiftly establish and maintain contact with:
- a. group(s) directly affected by the incident
  - b. Duty Officer
  - c. Critical Incident Response Team colleagues
  - d. Senior management
  - e. external agencies and support as may be required
  - f. other stakeholders
16. Page 7 [NYA Critical Incident Response guidance](#) - 'Following a critical incident... Relevant workers must receive appropriate briefing and training relevant to their role and understand the procedures and actions they should follow in an emergency'.
17. Page 2 [NYA Group Management Good Practice guidance](#) - 'Youth organisation workers should also ensure that each young person under their care:
- a. Knows who their leader(s)/ workers are at any given time and how to contact them, and who else is in their group
  - b. Understands any instructions or briefings given to them
  - c. Understands the main risks involved in the activity, measures in place to manage them and how their own behaviour may affect these
  - d. Is able to alert a staff member if someone is missing or in difficulties
  - e. Has a clear understanding of any restrictions or parameters in place i.e. geographical boundaries; curfews or time limits; what they are/are not able to do with or without informing a staff member
  - f. Is aware of any designated meeting place and any action they should take if they become lost or separated from the group'.
18. Page 3 [NYA Risk Assessment Process guidance](#) - 'Risk assessment should involve a logical process that involves prior consideration by individuals with suitable knowledge and competency in the proposed activity/settings and working with young people... Risk assessments should be in place for all venues (indoor and outdoor)'
19. Page 9 [Risk Assessment Process NYA guidance](#) - 'Risk assessments should be written down i.e. be 'recorded'... Risk assessment documents should specify:
- a. The programme, activity or venue to which the assessment pertains
  - b. The hazards/risks that reasonable to foresee
  - c. The associated control measures against each hazard/risk
  - d. Date of the assessment



e. Who carried out the assessment

20. Page 10 [NYA Risk Assessment Process guidance](#) - 'Organisations should make risk assessments available to all workers as applicable and support them to understand the contents and their associated responsibilities. Workers should as a minimum be briefed on the risk assessment(s) and any key controls in place, particularly those that rely on the action of workers to be properly implemented.'
21. Page 2 [NYA Safety Briefings guidance](#) - 'It is good practice for all workers, particularly those working directly with young people, to receive a structured briefing at the beginning of any programme and/or after any significant change. This briefing should include a summary of the risk assessment, identifying key hazards and any key control measures that apply to the forthcoming activity... It is important that young people are also provided with a structured briefing at the beginning of any programme and after any significant change.'
22. Page 2 [Weather NYA guidance](#) - 'Youth work organisations should consider the potential effects of adverse weather when planning youth sector programmes and activities. This is particularly important for any plans involving outdoor activity'.

**Restricted Duties** – NYA guidance concerning how restrictions might be raised, placed against staff members, and resolved.

23. Page 2 [NYA guidance on allegations against staff and volunteers](#) - 'Any allegation or concern that an employee or volunteer has behaved or may have behaved in a way that has hurt/harmed, or potentially harmed, a child or young person, must be taken seriously and dealt with sensitively and promptly, regardless of where the alleged incident took place... Any allegation against a member of staff must be reported within 24 hours to the County LADO Service, by the DSL including a dated and timed note of what has been disclosed or noticed, said or done. This referral will determine whether allegation reaches the harm threshold to justify involvement from a LADO in the management of the allegation... Depending on the outcome of the LADO referral, appropriate next steps may involve:
- a. The police investigating a possible criminal offence.
  - b. Your local child protection services making enquiries and/or assessing Whether a child is in need of support.
  - c. your organisation following the relevant disciplinary procedures with individuals concerned.'
24. Page 3 [NYA guidance on allegations against staff and volunteers](#) - 'Should the outcome of the allegation against the member of staff determine that harm has been caused, the organisation will follow their own internal procedures of disciplinary, investigation and/or hearing... the member of staff could be asked to

undertake further training, or ultimately be dismissed. Referral to the DBS must be made if a person in regulated activity has been dismissed or removed due to safeguarding concerns.’

**Absence of Safeguarding and Safety compliance** – DfE, Charity Commission, NYA and OEAP<sup>7</sup> guidance on the importance of safety and safeguarding training, overnight stays, DBS checks and over 18s interacting with children.

25. Page 32 [DfE guidance for providers](#) – ‘You should regularly monitor and review staff members and volunteers. This is to ensure they continue to be well suited and have the necessary skills and training to carry out their role and responsibilities. It should include ensuring staff have appropriate training on health and safety and child protection. Ideally, you should have physical proof of the training that has been undertaken (for example, copies of certificates).’
26. Page 35 [DfE guidance for providers](#) – ‘Providers with 5 or more staff must... have a written health and safety policy, including a risk assessment section.’
27. Page 51 [DfE guidance for providers](#) – ‘Educational visits or overnight stays are subject to risk assessments. Your risk assessments should include reasonable steps you’ll take to ensure the children in your care are safe...’.  
This guidance also signposts the [DfE guidance on educational visits](#) which covers health and safety on educational visits in more detail.
28. Page 78 [DfE KCSIE guidance](#) (referenced for OOSS as good practice to note, if not compulsory) – states that you should ‘undertake a written risk assessment’ for volunteers and should consider:
- a. ‘the nature of the work with children, especially if it will constitute regulated activity, including the level of supervision
  - b. what the establishment knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers
  - c. whether the volunteer has other employment or undertakes voluntary activities where referees can advise on their suitability
  - d. whether the role is eligible for a DBS check, and if it is, the level of the check, for volunteer roles that are not in regulated activity.’
29. Page 129 [DfE Working Together to Safeguard Children](#) – ‘Individual practitioners, whether paid or volunteer, should be aware of their responsibilities for, and how they should respond to, child protection concerns. They should also know how to

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<sup>7</sup>The Outdoor Education Advisers’ Panel offers guidance, advice and training related to outdoor learning and educational visits in England and Wales. They are referenced in DfE guidance as an additional resource for guidance for the management of outdoor learning, educational visits, and adventurous activities.

make a referral to a local authority children's social care or the police, if necessary.'

30. As flagged in the main response, the [Safeguarding and protecting people for charities and trustees guidance](#) from the Charity Commission expects all charity trustees to ensure that their charity:
- a. has appropriate policies and procedures in place, which are followed by all trustees, volunteers and beneficiaries
  - b. has enough resources, including trained staff/volunteers/trustees for safeguarding and protecting people
  - c. conducts periodic reviews of safeguarding policies, procedures and practice
  - d. follows statutory guidance, good practice guidance and legislation relevant to their charity: this guidance links to the main sources of information
31. Page 2 [NYA Workforce information guidance](#) - 'All workers, including volunteers need to be trained in matters of health and safety relevant to their role... Organisations must ensure that workers have understood the relevant information, how it affects them and their associated responsibilities...'
32. Page 3 [NYA Worker competency guidance](#) - 'Workers' training needs should be reviewed periodically and key training requirements should be repeated at a frequency identified by their employer.'
33. Page 6 [NYA Safeguarding for youth work guidance](#) - '...ensure that an assessment is made, specific to the programme to ascertain staffing requirements, which will enable effective supervision of young people and effectively manage the associated risks.'
34. Page 4 of the Activity Leader responsibilities, available to download from [OEAP guidance](#) webpage, provides an outline of Activity Leader responsibilities (below) and an additional checklist for Visit and Activity leaders;
- a. 'Be aware of the activity location and any specific hazards at it; of relevant information about the participants (e.g., age, health information, capabilities, special needs, safeguarding and behavioural issues); of emergency procedures (including how to access participants' emergency contact details and medical consent etc.)
  - b. Assess the risks involved in the activities you will lead, and ensure that they are planned to appropriately balance benefits and risks...
  - c. Follow the advice in the [OEAP National Guidance documents](#) about specific types of activity and hazard that are relevant to the activities you will lead

- d. Ensure that you are clear about which participants you are responsible for at any particular time, and that there is a clear handover to and from other leaders
- e. Carry a list of all participants, and conduct regular headcounts
- f. Have an alternative plan (a 'Plan B') in case the activity needs to be changed
- g. Have the means to contact the Visit Leader or other leaders, or to call for help in an emergency'

35. Page 1-2 of the Adult Participants guidance, available to download from [OEAP guidance](#) webpage, provides information on groups with both Adult and Younger Participants:

- a. You could ask the adults to agree to the same code of conduct as under-18s. It should be made clear whether such a code of conduct applies throughout the visit, including during any 'free time' such as evenings during a residential visit.
- b. It is not necessary, and not legally allowed, to obtain a DBS check on adults who are simply participating in a visit alongside under-18s. Any safeguarding concerns should be addressed through supervision.
- c. However, if any such adult participants have a role that places them in a position of trust, such as being a voluntary helper or supervisor, then they should be subject to appropriate vetting. If this role involves 'regulated activity', then a DBS check will be required unless they are themselves under supervision.

**Monitoring, Auditing and Reliance on Volunteer Line and the need for paid trainers, and Delays in training** – HSE guidance outlines monitoring and review procedures for training programmes.

36. [HSE Health and Safety training guidance](#) – 'Employers must ensure that all employees are provided with adequate health and safety training when they start work. Monitoring and review procedures can help highlight when training is required. Ongoing training must also be provided in response to changes, such as:

- a. meeting the needs of new students
- b. the identification of additional risks
- c. a change in the needs of existing students leading to a change in the way that risks arising from their needs are managed'.

**First aid provision and training** – DFE, HSE, OEAP and NYA guidance outlines recommended first aid training and requirements for trained staff.

37. Page 10 [DfE guidance for providers](#) – 'You should have first aid training and a first aid kit to hand as well as awareness of what to do in an emergency...'

38. Page 34 [DfE guidance for providers](#) – You should have ‘...at least one staff member who has first aid training’
39. [Health and Safety Executive Guidance on First Aid at Work](#) – The First Aid Regulations do not place a legal duty on employers to make a first-aid provision for non-employees such as the public or children in schools (i.e. not a legal requirement for volunteer Scout leaders and Scouts). However, HSE strongly recommends that non-employees are included in an assessment of first-aid needs and that provision is made for them.
40. Page 2 [NYA First aid provision guidance](#) - ‘Higher risk settings, activities or the likelihood of complex participant needs may result in the requirement for an increased level of training’.
41. Page 5 of the Activity Leader guidance, available to download from the [OEAP guidance](#) webpage – Activity leaders should ‘have access to a first aid kit, and be trained in first aid or know how you can get immediate help if necessary.’

**Autonomous Charities** – DfE guidance on the responsible safeguarding lead, applicable at all levels of any organisation, alongside guidance concerning responsibilities of trustees overseeing charities.

42. Page 14 [DfE guidance for providers](#) – ‘Detailed information on a DSL’s duties and relevant training is provided in [DfE Keeping children safe in education](#) (KCSIE), under Part two: The management of safeguarding. Although KCSIE is the statutory safeguarding guidance for schools and colleges, we signpost to it, as it may also be useful for Out-of-School Settings as ‘best practice’.
43. Page 7 [DfE KCSIE guidance](#) – states that ‘the designated safeguarding lead (and any deputies) are most likely to have a complete safeguarding picture and be the most appropriate person to advise on the response to safeguarding concerns’
44. Page 163 [DfE KCSIE guidance](#) Annex C – offers further guidance on the role of the DSL in the context of schools and colleges, which we reference as an example of good practice for Out-of-School Settings, such as the Scout Association.
45. As flagged in the main response, page 128 [DfE Working together guidance](#) – Working Together notes that VCSE organisations (which cover Out-of-School Settings) may be subject to charity law and regulated either by the Charity Commission and/or other ‘principal’ regulators. Charity trustees are responsible for ensuring that those benefiting from, or working with, their charity, are not

harmed in any way through contact with it. The Charity Commission for England and Wales provides [guidance on charity compliance](#) which should be followed.

46. Page 128 [DfE Working together guidance](#) – Working Together notes that VCSE organisations (which cover Out-of-School Settings) may be subject to charity law and regulated either by the Charity Commission and/or other ‘principal’ regulators. ‘Charity trustees are responsible for ensuring that those benefiting from, or working with, their charity, are not harmed in any way through contact with it. The Charity Commission for England and Wales provides [guidance on charity compliance](#) which should be followed.’

**Permit and Licensing Schemes** – DfE & OEAP guidance on ensuring suitability of staff and permits for activities.

47. Page 24 [DfE guidance for providers](#) – ‘You should... regularly review the performance and suitability of staff and volunteers after their appointment’.

48. Page 32 [DfE guidance for providers](#) – ‘You should regularly monitor and review staff members and volunteers. This is to ensure they continue to be well suited and have the necessary skills and training to carry out their role and responsibilities. It should include ensuring staff have appropriate training on health and safety and child protection. Ideally, you should have physical proof of the training that has been undertaken (for example, copies of certificates).’

49. Page 1-2 of the Adventure Activity Licensing guidance, available to download from [OEAP guidance](#) webpage – ‘The Activity Centres (Young Persons’ Safety) Act 1995 requires anyone who provides certain adventure activities to young people under the age of 18 in return for payment to have a licence and abide by its conditions. The Adventure Activity Licensing Regulations 2004 give full details about the providers and activities in scope of the licensing scheme. The licensing scheme is operated by the Adventure Activities Licensing Authority (AALA) and is an assurance that a provider meets safety standards. Trekking is affected by the scheme and is defined as:

- a. Journeyming on foot, horse or pedal cycle, or skiing, over terrain which is moorland or more than 600 metres above sea level; and from which it would take more than 30 minutes travelling time to reach any accessible road or refuge; This includes hill walking and mountaineering.’