



Unregistered Educational Settings Hackney Operational Protocol

Updated March 2021

1. Introduction

- 1.1 The purpose of the protocol is to provide a clear operational framework for the City & Hackney Safeguarding Children Partnership (CHSCP) in respect of Unregistered Educational Settings (UES) in Hackney. The protocol covers two stages.
- Stage 1 is focused on the actions to be taken when potential UES are identified.
 - Stage 2 deals with the multi-agency response when safeguarding concerns are raised about UES.
- 1.2 This protocol does not replace the actions to be taken when concerns meet the requirement for statutory social work intervention by Hackney Children and Families Service. **Any person concerned that a child is in need or being abused or neglected should refer their concerns to Hackney's First Access & Screening Team (FAST)¹ in line with The Hackney Child Wellbeing Framework². If a child is at risk of immediate harm, please contact the police by calling 999.**
- 1.3 Furthermore, this protocol does not replace the procedures governing the response to allegations made against people in positions of trust and those either working, volunteering or coming into contact with children in UES. **In these circumstances, referrals should also be made to Hackney's First Access & Screening Team (FAST). Hackney's Local Authority Designated Officer (LADO) will lead on the management of allegations in this context**
- 1.4 Intervention in respect of 1.2 and 1.3 is defined in statutory guidance, Working Together to Safeguard Children 2018 and The London Child Protection Procedures³.

¹ [The First Access & Screening Team contact details](#)

² [The Hackney Child Wellbeing Framework](#)

³ [The London Child Protection Procedures 5th Edition](#)

2. Duty to Cooperate – Safeguarding Partners

2.1 This protocol has been issued by safeguarding partners in the London Borough of Hackney as part of the CHSCP's overall safeguarding arrangements. The safeguarding partners of the CHSCP (Hackney Council, the Metropolitan Police Service and the City & Hackney Clinical Commissioning Group (CCG)) have a shared and equal duty to make arrangements to work together to safeguard and promote the welfare of all children. They agree on ways to co-ordinate safeguarding services; act as a strategic leadership group in supporting and engaging others; and implement local and national learning.

2.2 In line with paragraphs 8.7 and 8.8 of the CHSCP's Safeguarding Arrangements⁴, there is an expectation that all services within safeguarding partner agencies follow this protocol as required. In respect of Hackney Council, this includes, but is not limited to the following:

- Hackney Education (the lead agency for this protocol).
- Hackney Children & Families Services.
- Hackney Community Safety, Business Regulations & Enforcement.
- Hackney Libraries, Leisure Centres & Green Spaces.
- Hackney Trading Standards, Licencing & Environmental Health.
- Hackney Housing Services.

3. Duty to Cooperate – Relevant Agencies

3.1. All organisations and settings that have been designated as 'relevant agencies' by the CHSCP are also expected to work in partnership and cooperate with the protocol. These include:

- Previous members of the City & Hackney Safeguarding Children Board.
- Schools / educational establishments and early years settings.

⁴ [The CHSCP Safeguarding Arrangements 2019](#)

- Organisations named in part 4 of the Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018⁵.
- Out-of-School Settings⁶.

3.2. For those organisations and agencies who are not named as relevant agencies, whilst not under a statutory duty, they should nevertheless collaborate with the CHSCP, particularly as they may have duties under section 10 and/or section 11 of the Children Act 2004.

4. Roles & Responsibilities

4.1 A number of core organisations are responsible for action under this protocol. Their respective roles and powers are set out in Appendix 3.

4.2 For a number of core agencies, **Single Points of Contacts (SPOCs)** must be established to ensure the effectiveness of this protocol.

4.3 SPOCs take a lead on behalf of their respective organisation or department for implementing and raising awareness of this this protocol, coordinating their agency's operational responding and retaining a contemporary understanding about the context of UES in Hackney.

4.4 As a minimum, SPOCs exist within the following organisations / departments (in addition to contacts in both Ofsted & the Department for Education). Contact details are set out in Appendix 4.

- Hackney Education – Wellbeing & Education Safeguarding
- Hackney Children & Families Services - Children's Social Care (+ the LADO (Designated Officer) as necessary)
- The City & Hackney Clinical Commissioning Group
- Hackney Planning & Enforcement, Building Control
- Hackney Environmental Health

⁵ [Part 4 of the Child Safeguarding Practice Review and Relevant Agency \(England\) Regulations 2018](#)

⁶ See Appendix 2

- Hackney Legal Services
- The Metropolitan Police Service
- London Fire Brigade
- Health & Safety Executive
- Hackney Legal Services
- The City & Hackney Safeguarding Children Partnership Team

5. Stage 1: Identifying a UES

5.1 This section sets out the ways in which a range of organisations and departments can help identify UES. Those organisations listed are not exhaustive and anyone who believes they have identified a UES should report this to the Hackney Education SPOC.

5.2 **Flow Chart 1 details the steps that will be taken in response.**

UES Self-Identifying

5.3 All UES operating within the jurisdiction of the City of London and Hackney are expected to self-identify their existence to the Hackney Education SPOC. In line with the expectations set out under section 16H Children Act 2004⁷, they should provide the Hackney Education SPOC with the information set out below. This will support the CHSCP to engage UES and seek reassurance that the expected standards of safeguarding practice are being met.

- Address
- Status (i.e. whether operating as a charity)
- Names of proprietors / trustees as relevant
- Numbers of children / young people attending

⁷ [S16H Children Act 2004](#)

Relevant Agencies - Sharing Information

- 5.4 Similarly in line with section 16H Children Act 2004, the CHSCP also expects that other relevant agencies, who have access to some or all of the information set out in 5.3, to share this with the Hackney Education SPOC.

Hackney Education

- 5.5 Alongside the lead role of the Head of Wellbeing & Education, other Hackney Education professionals are well placed to identify potential UES.

Pupils Out of School Team

- 5.6 As part of any investigation to establish the educational arrangements made for a child, the Pupils Out of School Team could identify that a child attends a UES. For example, a parent or child might directly inform the Elective Home Education Officer that the child is receiving some or all of their education at a UES, whether that is supplementing home tuition or fully providing their education. If such information is obtained, this should be referred to the Hackney Education SPOC in line with Flowchart 1.

Schools Admissions Team

- 5.7 Maintained schools, and independent schools, inform Hackney's Admissions team when a pupil is taken off roll for elective home education. In each case, the admissions team inform the Elective Home Education Officer.
- 5.8 When Admissions are informed either by a school or a parent that a child is transferring to another educational establishment, the Admissions Officer checks that the educational establishment is a registered school. If a child is believed to have transferred to a UES, the admissions officer must inform the Hackney Education SPOC.

Hackney Council – Planning & Enforcement

- 5.9 Hackney's Planning & Enforcement directorate is also well-placed to identify premises which may be operating or looking to operate as an unregistered educational setting. This could include planning applications for change of use, inspection Hackney's estate, or civil enforcement officers noticing premises which appear to be offering education to school aged children during the school day. Officers who think a business or premises might be providing education services to children follow the reporting protocol in Flowchart 1 and make a referral to the Hackney Education SPOC.

Hackney Council – Environmental Health

- 5.10 Officers from Hackney Council's Environmental Health can inspect premises providing education to children in Hackney, including UES. On receipt of a complaint, officers can investigate to ascertain whether food is prepared and sold safely and hygienically. Such complaints could arise in the context of UES. Officers who think that a business or premises being inspected might be providing education services to children must follow the reporting protocol in Flowchart 1 and make a referral to the Hackney Education SPOC.

The Metropolitan Police Service

- 5.11 The Police have powers under s.17 of the Police and Criminal Evidence Act to enter premises, or the common law power to prevent a breach of the peace where there may be imminent harm posed to life and limb. During their operational work, should any police officer suspect that a location is operating as a UES, this should be reported to the Hackney Education SPOC in line with Flowchart 1.

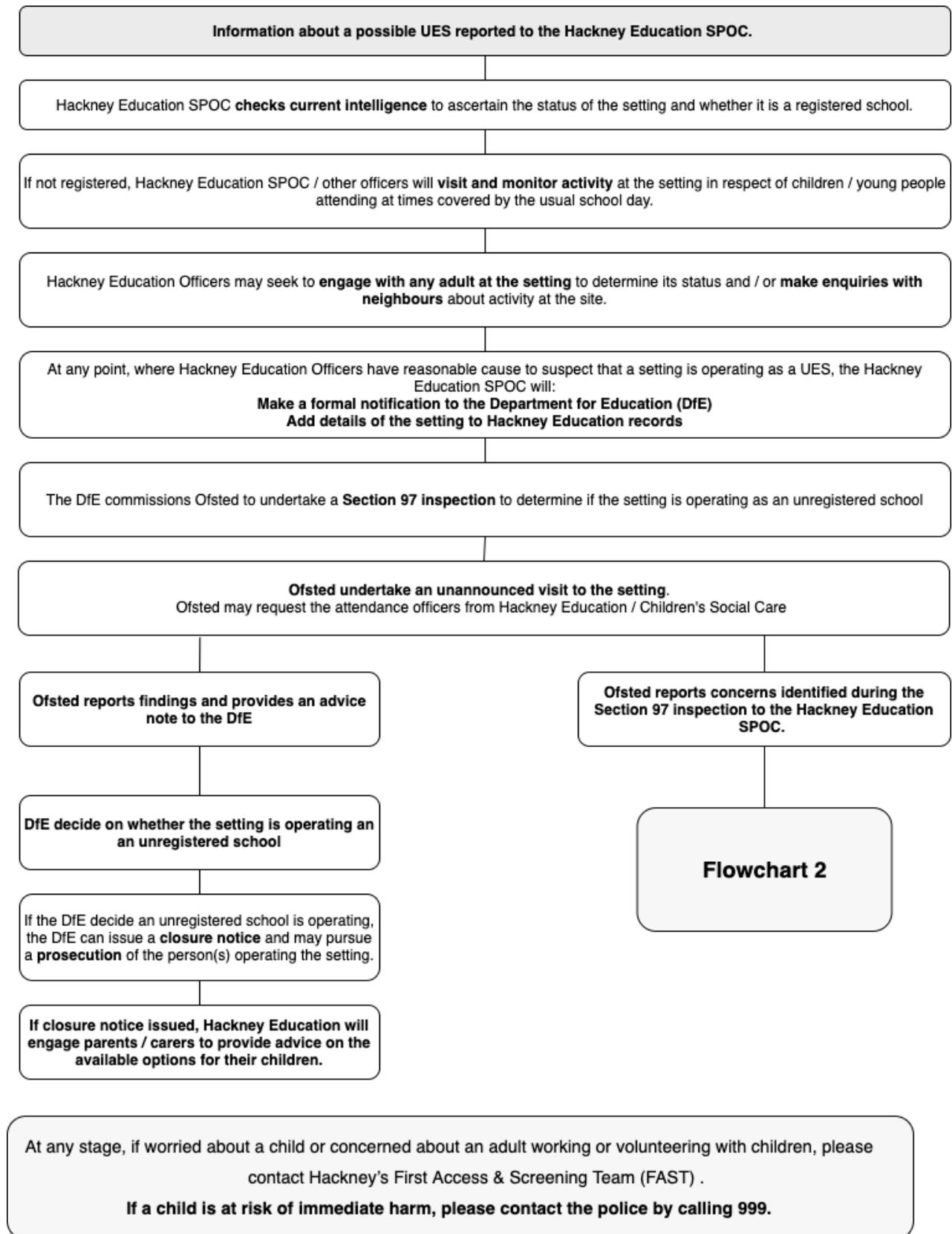
London Fire Brigade

- 5.12 For whatever reason, where Fire Officers attend premises, they should remain alert to the possibility of UES. Where it is believed such premises are operating in this context, a referral should be made to the Hackney Education SPOC.

Councillors

- 5.13 Councillors are in touch with developments within their wards and can be well placed to identify UES. When Councillors become aware of a possible UES, they must inform the lead member of Children's Services and the Group Director of Children, Adults and Community Health. The Group Director will inform the Hackney Education SPOC. Councillors can also encourage community leaders in their wards to share information they have regarding possible UES directly with the Hackney Education SPOC.

6. Flowchart 1 – Identification of a possible UES



7. Stage 2: Response to Safeguarding Concerns

- 7.1 Stage 2 covers the operational response to safeguarding concerns raised about UES. This excludes any action necessary as described in paragraphs 1.4 and 1.5 of this protocol.
- 7.2 Concerns about UES can arise from a number of sources. Experience shows that the significant majority of these derive from either site visits by Hackney Education officers, contact from members of the public or from the Office for Standards in Education, Children's Services and Skills (Ofsted).
- 7.3 Contact from members of the public has often related to noise, building works, children being left unsupervised and general concerns for health and safety.
- 7.4 Concerns from Ofsted are ordinarily made as part of its responsibility for investigating suspected unregistered schools. Section 96 of the Education and Skills Act 2008 makes it a criminal offence to conduct an independent educational institution unless it is registered.
- 7.5 When notified of a suspected unregistered school, Ofsted undertake an inspection under section 97 of the Education and Skills Act 2008 to determine the status of the reported setting. The catalyst for many local inspections has been Hackney Education notifying Ofsted of a setting operating as a possible school consistent with Flowchart 1 in this protocol.
- 7.6 Following inspection, if evidence suggests that the setting is operating as an unregistered school, the Department for Education will take the necessary enforcement action available to it within the law.
- 7.7 However, due to acknowledged deficits in both the law and the associated definition of a school, many of the local section 97 inspections undertaken have concluded settings are not operating as unregistered schools. As a consequence, no further enforcement action has been taken, despite Ofsted identifying numerous concerns that would be considered unacceptable in the context of an inspection of

a state funded or independent school. These concerns have been subsequently reported back to Hackney Education.

- 7.8 Many of these concerns are outside of the single remit of Hackney Education. Some fall within the domain of other Council departments and others relate to external agencies.
- 7.9 **Stage 2 provides a framework through which such concerns will be systematically considered by all key agencies, with further assessment and intervention being planned, coordinated and delivered through a defined procedure. This simple process is set out in Flowchart 2.**

Receipt of Concerns

- 7.10 On receipt of concerns from any source, if not done so already, the Hackney Education SPOC will make an immediate decision as to whether the case should be referred to Hackney's FAST. This must take place if any concerns indicate that statutory intervention is required under section 17 or section 47 of the Children Act 1989 or when an allegation has been made against adult(s) working, volunteering or coming into contact with children in UES.
- 7.11 Other decisions that can be made by the Hackney Education SPOC include:
- **No further action.**
 - **Convene a UES Planning Meeting.**
- 7.12 The rationale for decision making following receipt of a concern will be clearly recorded by the Hackney Education SPOC and authorised by their manager.
- 7.13 A decision for no further action can only be made if there is clear evidence that the issue has already been addressed, is already being addressed or that it is clear the referral has no basis as a concern in respect of UES.

7.14 If the concern is raised by a professional, then contact should be made with this person within 24 hours to advise them on the next steps – i.e. no further action / UES planning meeting.

UES Planning Meeting

7.15 The Hackney Education SPOC will ordinarily decide whether a UES planning meeting needs to be held, although this protocol allows any agency to request one.

7.16 Statutory intervention in respect of child protection will always take primacy. As such, UES planning meetings can only be convened when:

- the need for intervention in respect of either child protection or allegations against adults working with children have been ruled out and/or
- where authority has been given by statutory agencies (Children & Families Services / Police) that the UES planning meeting can go ahead.

7.17 Once established that a UES planning meeting can convene, the Hackney Education SPOC is responsible for setting up the meeting and inviting relevant agency SPOCs as listed in this protocol.

7.18 **All invited agencies must send a representative.** Ideally, this should be the agency SPOC, although if unavailable, a delegate with sufficient knowledge about UES and the seniority to make decisions on behalf of their organisation can attend.

7.19 The UES Planning Meeting should be used to:

- **Share available information and the nature of concerns.**
- **Decide what further information might be needed.**
- **Agree the action and timing of any intervention by involved agencies.**
- **Clarify such action in line with the respective legal duties and powers of involved agencies.**
- **Agree a date for a Review UES planning meeting to determine and monitor progress of any agreed actions.**

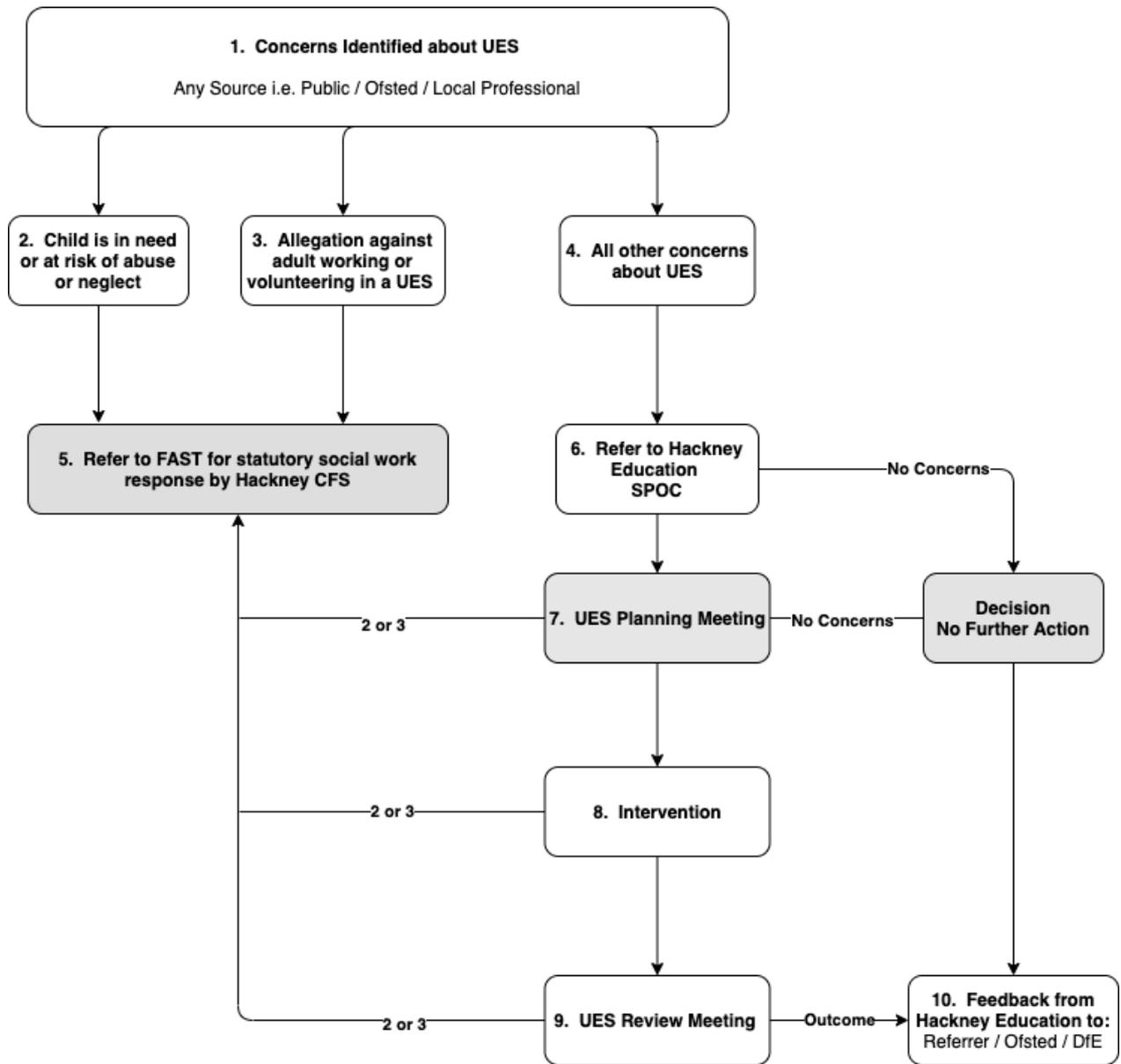
Intervention

- 7.20 The ability to intervene with UES is known to be limited given the legislative ambiguity surrounding such settings and the acknowledged lack of statutory powers available to partner agencies.
- 7.21 However, any and all potential actions will be thoroughly considered and based on the range of duties and powers open to agencies as set out in Appendix 3.

Feedback

- 7.22 Feedback to referrers (whether public or professionals) on the outcome of any intervention should be made with due consideration to information sharing requirements governed by the General Data Protection Regulations and Data Protection Act 2018.
- 7.23 If raised by Ofsted as part of a section 97 inspection, a formal account of the planned multi-agency response will be made by the Hackney Education SPOC following the first UES Planning Meeting. This will highlight any intervention that is proposed and identified legal limitations (if any) of pursuing any issues of concern.

8. Flowchart 2 – Concerns about a UES



Appendix 1: UES

- **An Unregistered Educational Setting (UES) is NOT an independent school.**
- The definition of an independent school is set out in section 463 of the Education Act 1996 ('the 1996 Act'), and in, broad terms, is a school which provides **full-time education for five or more pupils of compulsory school age, or one or more such pupil who has an Education and Care Plan (EHC) or is 'looked after' by a local authority.** Local authority maintained schools and Non-Maintained Special Schools approved under s.342 of the 1996 Act are excluded from this definition.
- UES encompass settings which whilst meeting the test for being full-time and providing education to compulsory school age children, teach a curriculum that is too narrow for the setting to constitute a 'school'.
- The consequence of this is that UES neither be registered nor regulated.

Appendix 2: Out of School Settings

Out of school settings provide tuition, training, instruction or activities without the supervision of parents or carers. The following is a non-exhaustive list of what is considered to be an out-of-school setting. **This definition includes UES.**

- Tuition or learning centres (which may be used to support mainstream, or home education) e.g. in term time or holiday courses in key stage 1-4 curriculum;
- English and mathematics skills; examination preparation (i.e. SATs, GCSE, A Level and 11 plus / school entry exams) etc;
- Extracurricular clubs or settings, e.g. ballet classes, gymnastic training, sports tuition, instrumental music tuition, martial arts training, drama classes, etc;
- Uniformed youth organisations, e.g. the Scouts and Guides;
- Open access youth providers, e.g. centre-based and detached youth work;
- Supplementary schools or what are sometimes called complementary schools, e.g. those offering support or education in addition to the mainstream, or core learning, and which operate after school hours or during the weekend;
- Private language schools, including those for children coming from abroad;
- Religious settings which offer education in their own faith, e.g. Jewish yeshivas and chedarim, Muslim madrassahs, Hindu OOSS, Sikh OOSS, Christian Sunday schools, etc.

Appendix 3: Duties and Powers

Agency	Powers	Role
Ofsted	Under <u>s.97 Education and Skills Act 2008</u> Ofsted have the power to enter and inspect a premises that they believe is operating as an independent school and to establish the identity of the proprietor.	<p>To undertake inspections of schools and check standards.</p> <p>When receiving local intelligence on suspected illegal schools, Ofsted will investigate, reporting findings and in an advice note for the DfE.</p> <p>Responsible for collecting evidence to support prosecutions by the Crown Prosecution Service.</p>
Department for Education	Under <u>s.96 of the Education and Skills Act 2008</u> , in England a person must not conduct an independent educational institution unless it is registered. A person who does so is guilty of a criminal offence; this currently carries a maximum penalty of 6 months imprisonment and/or an unlimited fine.	<p>Make a decision, based on the evidence provided by Ofsted, on whether an establishment is acting as a school.</p> <p>May issue a closure notice if it determines an establishment is acting as an unregistered school.</p> <p>Secretary of State to consent to any prosecutions related to unregistered educational settings.</p>
Hackney Education	<p>Enforcement powers <u>s.437 Education Act 1996</u> – School Attendance Orders (if it appears that a child of compulsory school age if not receiving suitable education)</p> <p><i>(Nb. No statutory or enforceable powers regarding unregistered provision)</i></p>	<p>Co-ordinate, review and progress initial investigations of suspected unregistered schools.</p> <p>Make formal notifications to DfE about suspected unregistered schools.</p> <p>Pursue School Attendance Orders where it appears that a child of compulsory school age is not receiving statutory education.</p>
Children’s Social Care	<p>Under <u>s.17 of the Children Act 1989</u>, the local authority has a general duty to safeguard and promote the welfare of children within its area who are in need and to promote the upbringing of those children by their families.</p> <p>Under <u>s.47 of the Children Act 1989</u>, where there is reasonable cause to suspect</p>	<p>To accompany Hackney Education officers/Ofsted in mutli-agency visits to establishments where there is reasonable cause that a child is suffering or is likely to suffer significant harm.</p> <p>Manage and investigate allegations against staff or volunteers who work with children (in registered and unregistered educational settings).</p>

Agency	Powers	Role
	<p>a child who lives or is found in their area is suffering or is likely to suffer significant harm, the local authority shall make or cause to be made such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare.</p> <p>The local authority has a statutory duty to manage and investigate allegations against staff or volunteers who work with children (through the Designated Officer role).</p>	
Police	<p>The Police have powers under <u>s.17 of the Police and Criminal Evidence Act</u> to enter premises, or the common law power to prevent a breach of the peace where there may be imminent harm posed to life and limb.</p>	<p>Assist in persuading proprietors, if necessary, that a multi agency team should gain entry to the premises.</p> <p>If having gained entry the Police have other concerns, then depending on the level of severity it may be that the Police have to consider further powers available to them.</p>
London Fire Brigade	<p>Enforcement of <u>Regulatory Reform (Fire Safety) Order 2005</u> – can include closure of premises if deemed unsafe.</p>	<p>London Fire Brigade will respond to information provided by Hackney Education and undertake visits to identified premises.</p> <p>Reports from such visits will be shared with Hackney Education and Hackney Council's Planning Enforcement team.</p>
Planning & Enforcement	<p><u>Town and Country Planning Act 1990</u>, and various subordinate acts.</p> <p>Powers to issue Stop Notices.</p> <p>Powers of entry within 24 hours if property is residential, immediate if a property is non-residential.</p>	<p>The Planning Enforcement team responds where there is a breach of planning permission that has been sought for a particular purpose.</p> <p>Enforcement Notices can lead to prosecution.</p> <p>If planning permission is granted, this would be subject to conditions such as number of people allowed to attend a premises at any given time.</p>

Agency	Powers	Role
<p>Environmental Health</p>	<p>Enforce the <u>Health and Safety at Work etc Act 1974</u> in all other nursery settings not covered by the Health and Safety Executive.</p> <p>Enforce the <u>Food Safety Act 1990</u>, and attendant legislation where a food business is being run for profit or not.</p>	<p>Investigate initial complaints to ascertain whether food is prepared and sold safely and hygienically.</p> <p>Serve food hygiene improvement notices and evoke closure powers if an imminent risk to health exists.</p>
<p>Health and Safety Executive</p>	<p>Enforce the <u>Health and Safety at Work etc Act 1974</u> in all educational establishments, that are deemed a place of work. This includes pre-school, nursery schools for 3-5 year olds, as deemed by the Education Act 2014, and religious activities, including education and training, whether vocational or non-vocational.</p>	<p>Will investigate initial complaints & decide whether to visit on appropriateness of safety and risk.</p> <p>Serve safety improvement or prohibition notices to secure compliance.</p> <p>The Health and Safety Executive is not responsible for welfare provisions of non-employees.</p>

Appendix 4: Single Points of Contact

Agency	Name	Contact
Hackney Children & Families Services	Lisa Aldridge	lisa.aldridge@hackney.gov.uk Head of Safeguarding & Learning Children and Families Services 1 Hillman Street, E8 1DY 02083566164
Hackney Education	Chris Roberts	chris.roberts@hackney.gov.uk Head of Wellbeing & Education Safeguarding, Hackney Education 1 Reading Lane, E8 1GQ 0208 820 7325
The Metropolitan Police Service	Az Odabashian	Azad.Odabashian@met.pnn.police.uk T/Detective Chief Inspector Central East BCU, 07733914964
The City & Hackney CCG	Anna Jones	a.jones2@nhs.net Designated Nurse LAC, City & Hackney CCG, St Leonards Hospital, N1 5LZ 07840038502
The City & Hackney CCG	Amy Wilkinson	Amy.Wilkinson@hackney.gov.uk Integrated Commissioning Workstream Director, CYP, Maternity & Families 1 Hillman Street, E8 1DY 0208 356 5989
Hackney Planning & Enforcement / Building Control	Natalie Broughton	natalie.broughton@hackney.gov.uk Acting Head of Planning and Building Control. Planning & Regulatory Services. 1 Hillman Street, E8 1DY 02083566728
Hackney Environmental Health	Gerry McCarthy	gerry.mccarthy@hackney.gov.uk Head of Service. Community Safety, Enforcement and Business Regulations. 1 Hillman Street, E8 1DY 02083567087
Hackney Legal Services	Louise Humphreys	louise.humphreys@hackney.gov.uk Louise Humphreys Head of Legal and Governance 1 Reading Lane, E8 1GQ 07725 828 831

Disclosure & Barring Service		Kiranpreet.Rehal@dbs.gov.uk Kiran Rehal Regional Safeguarding Outreach Officer Disclosure & Barring Service 03001053081
London Fire Brigade		lee.sandy@london-fire.gov.uk Lee Sandy Borough Commander London Fire Brigade 075578000
Health & Safety Executive		https://www.hse.gov.uk/contact/index.htm
Ofsted	Sue Will	sue.will@ofsted.gov.uk Senior Her Majesty's Inspector, Unregistered Schools Team
Department for Education	Independent Schools Team	registration.enquiries@education.gov.uk Independent Education & Boarding Team, Department for Education
CHSCP Team	Rory McCallum	rory.mccallum@hackney.gov.uk Senior Professional Advisor CHSCP 1 Reading Lane, E8 1GQ 02083564042