

# Safeguarding Children in a UAE Education Context

by Anna Marshall - a.marshall@tamimi.com - Dubai Maze Tower

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UAE Federal Law No. 3 of 2016 (the “Child Rights Law”) enshrines the basic principle that children have the right to life and safety, and specifically provides that every child is entitled to an education.

The Child Rights Law seeks to prevent all kinds of violence in educational institutions and to preserve children’s dignity in an education context. The law states that a child’s mental, psychological, physical or ethical safety must not be prejudiced. These principles are reiterated and further elaborated on under Executive Council Resolution No. 2 of 2017 (the “Resolution”) which obliges private schools in Dubai to take all necessary measures to care for and protect their students’ rights.

For education providers in the UAE, there is a clear obligation to ensure that children’s safety and welfare is safeguarded to the greatest extent possible. So what can and should UAE schools be doing to reduce the risk of any student in their care being the victim of abuse?

## **Preventative Measures**

At the very outset, thorough and robust background checks should be undertaken on all potential job candidates, and employers should require candidates to provide criminal record checks and certificates of good standing regardless of whether their previous employment was in the UAE or elsewhere. This practice is consistent with the [Child Rights Law](#) which prohibits individuals with a criminal record from working in the UAE in any job which allows them to directly interact or communicate with children. Referees should also be requested from the candidate’s previous employer(s) for at least the past 5 years, and the school should ensure that thorough referee checks are undertaken. Some schools would outsource this background checking to specialist firms that focus on this.

Additionally, all schools must develop and implement an appropriate child protection policy that is clear and easy to understand for all stakeholders including students, staff and parents. The policy should be reviewed regularly by school management, and clear processes and procedures should be put in place to guide how issues will be dealt with as they arise. The policy should be emailed to all staff and made readily available on the school’s intranet.

Further, all staff and other adults working or otherwise in direct contact with the children (including independent contractors) should receive regular training regarding the school’s child protection policy, ideally during induction at the beginning of each academic year, to ensure that they can effectively deal with issues affecting the safety or wellbeing of students in the school’s care. The school should maintain an up-to-date record of all adults working or otherwise involved with the children at the school. For independent contractors (e.g. coaches, catering staff etc) an introduction to the child protection policy should form part of their on-boarding and also should be explicitly mentioned and appended to the commercial agreement between them and the school.

As part of the school’s child protection policy and procedures, designated Child Protection Officers (“CPOs”) must be appointed and should receive additional dedicated child protection training, as should school counsellors and doctors who may identify ‘markers’ of abuse. The school must make

it clear to students who their CPOs (and any other key points of contact) are and how they can be contacted, and the school should cultivate an atmosphere where students are encouraged and made to feel comfortable reporting issues to their CPOs. In accordance with the Resolution, private schools in Dubai must also establish a designated committee to address complaints filed by students and parents.

### *Considerations for Job Offers and Employment Contracts*

Employment contracts should include an adequate probation period (which can be up to 6 months in accordance with the UAE Labour Law) as an additional safeguard in relation to new employees. During the probation period an employee can be dismissed without notice if any issues do arise, or even if the employer simply does not consider the employee to be suitable for the work environment for any reason (i.e. even if no specific incidents have actually occurred).

Further, the employment contract should specifically state that the employment is at all times conditional on the employee being vetted and complying with the school's child protection policy, failing which the school will have the right to terminate the employment.

### **When Issues Arise**

While implementing the above steps will help reduce the risk of issues arising in the first place, schools must be able to respond appropriately in the unfortunate event of a child's safety or wellbeing being compromised.

A thorough investigation should be undertaken regarding any matter concerning a child's safety, including by interviewing the child (or children) involved and any other adults or students who were present at the time of the incident. The school counsellor, doctor and CPO should be involved as appropriate to gauge the extent of any physical or emotional abuse that may have occurred, together with any other members of the school committee tasked with investigating complaints and issues of this nature. As part of this process the child's parents or guardians should be kept up-to-date about the incident(s) and the steps the school is taking in response. The school's child protection policy must be followed and depending on the nature of the incident and the outcome of the initial investigation, the matter may need to be reported to the local authorities. The school must also notify its insurers of any potential claim which may trigger the school's insurance policy (i.e. a notification event).

Where an allegation is made against a staff member, it is possible for the school to temporarily suspend the staff member during any investigation into the matter. If the matter is sufficiently serious to warrant the involvement of the police, the employee can be suspended without pay for the duration of any criminal investigation (however the employee would be entitled to back pay for the suspension period unless they are ultimately convicted of a criminal offence). Alternatively, the employee can be suspended with pay for the duration of any internal investigation into the matter, and this is considered best practice. Management should carefully consider how best to explain the staff member's absence to other staff members, students and parents, particularly given the possibility of the staff member returning to duty following the suspension if the allegations against them are not substantiated.

Under the UAE Labour Law an employee is entitled to know the allegations being made against them and an opportunity to defend themselves. The employer must properly investigate the employee's defence and notify the employee of the potential consequences (e.g. dismissal) if they repeat the offence. It should be made clear to the person making the complaint that it is not always possible for the school to guarantee confidentiality, as the person who the complaint is made against is entitled to know the allegations against them (and the police and other relevant bodies may also need to be notified of the incident).

In the case of gross misconduct, however, an employee can be summarily dismissed (without notice or end of service gratuity) under Article 120 of the UAE Labour Law if they are convicted of an offence involving “honour, honesty or public morals”. Technically this would require a police complaint to be filed and for the employee to ultimately be convicted of the offence, after which the employer would be within its rights to summarily dismiss the employee in accordance with the UAE Labour Law. Legal advice should be sought on a case by case basis where a staff member is subject to an allegation involving child safety and the employer is considering its options in relation to the termination of employment or otherwise.

## **Summary**

All education institutions in the UAE have a clear mandate and responsibility to ensure that all children in their care are kept safe from physical and emotional abuse. By implementing the Child Rights Law, the UAE Government has enshrined the basic principles of child safety and sent a clear message to all individuals and institutions who exercise care over children. There are various practical steps which schools and other educational institutions can take to reduce the risk of child protection issues arising. However, effective and decisive action must be taken in response to any issues or incidents which do arise. Given the complexity in respect of potential employment, criminal, civil and insurance considerations, sufficient care and consideration should be taken in all cases.

*Anna is a member of the Al Tamimi Education team and regularly advises education providers on a wide range of issues. For further information please contact Anna Marshall (a.marshall@tamimi.com).*