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# Keeping learners safe

The role of local authorities, governing bodies and proprietors of independent schools under the Education Act 2002



## Guidance

Guidance document no: 158/2015

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# Keeping learners safe

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|----------------------------|---|
| <b>Audience</b>            | Local authorities; headteachers and governing bodies of maintained schools; headteachers and governing bodies of voluntary aided and foundation schools; teachers in charge of pupil referral units; church diocesan authorities; proprietors of independent schools; principals of further education institutions; school staff unions; Governors Wales; Careers Wales; higher education authorities and Local Safeguarding Children Board Chairs. It should also be read by staff within those organisations that have a lead responsibility for safeguarding children.   |
| <b>Overview</b>            | This document contains guidance for local authorities and governing bodies on arrangements for safeguarding children under section 175 of the Education Act 2002.   |
| <b>Action required</b>     | Employers and educational institutions engaged with the provision of education services to children and young people should take the necessary action outlined in this guidance. There are legal obligations for employers and educational institutions in these areas and these are highlighted in the guidance.   |
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| <b>Additional copies</b>   | This document can be accessed from the Welsh Government's website at <a href="http://www.wales.gov.uk/educationandskills">www.wales.gov.uk/educationandskills</a>   |
| <b>Related documents</b>   | This guidance replaces: <ul style="list-style-type: none"><li>• <i>Safeguarding Children in Education: The role of local authorities and governing bodies under the Education Act 2002</i> Welsh Assembly Government Circular No: 005/2008 (2008)</li><li>• <i>Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service</i> National Assembly for Wales Circular No: 34/02 (2002)</li><li>• <i>Criminal Records Bureau: Basic Facts for School Volunteers</i> National Assembly for Wales Circular No: 02/03 (2003)</li><li>• <i>Reporting Misconduct and Incompetence in the Education Service: Reporting Cases of Misconduct or Professional Incompetence in the Education Service – Revised Reporting Arrangements from 12 October 2009</i> Welsh Assembly Government Circular No: 018/2009 (2009)</li></ul> |

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## Preface

Everyone in the education service shares an objective to help keep children and young people safe by contributing to:

- creating and maintaining a safe learning environment for children and young people
- identifying where there are child welfare concerns and taking action to address them, where appropriate, in partnership with other agencies
- the development of children's understanding, awareness and resilience through the curriculum.

Achieving this objective requires systems designed to:

- prevent unsuitable people from working with children and young people
- promote safe practice and challenge poor and unsafe practice
- identify instances in which there are grounds for concern about a child's welfare, and initiate or take appropriate action to keep them safe
- contribute to effective partnership working between all those involved with providing services for children and young people.

The purpose of this guidance is to help all education providers make sure they have effective systems in place to support the achievement of those objectives. It sets out the responsibilities of local authorities, governing bodies of all maintained schools (references to schools throughout the document also apply to pupil referral units), Further Education institutions (FE institutions) and proprietors of independent schools to have arrangements for exercising their functions to safeguard and promote the welfare of children and young people in Wales. It is also relevant for supply agencies which supply staff to the education sector, contractors who work in education establishments responsible for under 18s, as well as other providers of education and training for those under 18.

## The status and content of this guidance

This guidance is issued by the Welsh Ministers in exercise of their powers under [section 175 of the Education Act 2002](#).

Under section 175 of the Education Act 2002 local authorities, governing bodies of maintained schools and FE institutions must have regard to this guidance for the purpose of meeting their duties and should exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children. The requirement to 'have regard' means that the guidance must be taken into account and any decision to depart from it, must be justified.

Under [section 157 of the Education Act 2002](#) proprietors of independent schools must comply with this guidance for the purpose of meeting standards set out in regulations and exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children.

This document:

- gives guidance about the effect of the duty to have arrangements about safeguarding and promoting the welfare of children introduced by [section 175 of the Education Act 2002](#) which came into force in Wales on 1 September 2006
- sets out the roles and responsibilities of local authorities, governing bodies, proprietors of independent schools, head teachers, and staff with designated responsibility for child protection in making arrangements to enable people in the education service to play their full part in safeguarding children from abuse and neglect
- supplements the guidance in [Safeguarding Children: Working Together Under the Children Act 2004](#), published by the Welsh Government in March 2007, by setting out the infrastructure and arrangements that need to be in place to ensure that people in the education service have the skills, means and training necessary to ensure children are protected from harm.

It does not prescribe detailed procedures, but aims to specify the outcomes that organisations need to secure to enable staff to meet the objective of keeping children safe from harm, and what needs to be done or put in place to achieve this.

**Chapter 1** provides an overview of the legislative and governance frameworks for safeguarding in Wales.

**Chapter 2** sets out the roles and responsibilities of local authorities, schools of all kinds and FE institutions to safeguard and promote the welfare of children. It provides guidance on the organisational and management arrangements which need to be put in place to safeguard children in the education service.

**Chapter 3** sets out the safeguarding duties and responsibilities shared by all staff who work in an education setting when responding to safeguarding concerns in accordance with the All Wales Child Protection Procedures.

**Chapter 4** provides a summary of key safeguarding issues about which those in the education service must be aware, and details of where to access further advice and guidance.

**Chapter 5** provides guidance on safer recruitment and selection in education settings. This includes recruitment and selection best practice, and other human resources processes that help to recruit candidates who have the skills, knowledge and aptitudes to work, whether paid or unpaid, in the education services and help to deter, reject or identify people who are unsuitable.

**Chapter 6** provides summary guidance on the recruitment checks to be made in education settings under the [Safeguarding Vulnerable Groups Act 2006](#), as amended by the [Protection of Freedoms Act 2012](#) to support the delivery of the recruitment and selection processes set out in chapter 5. It sets out what checks must or should be undertaken and for which staff, whether paid or unpaid. It replaces *Preventing Unsuitable People from Working with Children and Young Persons in the Education Service* (October 2002) and *Criminal Records Bureau: Basic Facts for School*

*Volunteers* (February 2003).

**The appendices** that follow include a number of model policies to support this guidance, to be used or adapted as appropriate. These do not form part of the statutory guidance.



## Glossary of terms

|                         |  |
|-------------------------|--|
| <b>Abuse: emotional</b> | The persistent emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional and behavioural development.   |
| <b>Abuse: physical</b>  | The hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates or induces illness in a child whom they are looking after.  |
| <b>Abuse: sexual</b>    | Forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening, including: <ul style="list-style-type: none"><li>• physical contact, including penetrative or non-penetrative acts</li><li>• non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities or</li><li>• encouraging children to behave in sexually inappropriate ways.</li></ul> |
| <b>Child in need</b>    | A child is a child in need if: <ul style="list-style-type: none"><li>• he/she is unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him/her of services by a local authority</li><li>• his/her health or development is likely to be significantly impaired, or further impaired, without the provision for him/her of such services or</li><li>• he/she is disabled.</li></ul>              |
| <b>Child protection</b> | Child protection is a part of safeguarding and promoting welfare. This refers to the activity which is undertaken to protect specific children who are suffering or are at risk of suffering significant harm as a result of abuse or neglect.   |
| <b>Development</b>      | Physical, intellectual, emotional, social or behavioural development.  |
| <b>Harm</b>             | Ill-treatment or the impairment of health or development, including, for example, impairment suffered from seeing or hearing the ill-treatment of another.   |

|   |  |
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| <b>Health</b>   | Physical or mental health.   |
| <b>Neglect</b>  | The Social Services and Well-being (Wales) Act 2014 has defined neglect as “a failure to meet a person’s basic physical, emotional, social or psychological needs, which is likely to result in an impairment of the person’s well-being (for example, an impairment of the person’s health or, in the case of a child, an impairment of the child’s development)”.  |
| <b>Safeguarding and promoting the welfare of children</b> | Protecting children from abuse and neglect, preventing impairment of their health or development and ensuring that they receive safe and effective care to enable them to have optimum life chances.   |
| <b>Significant harm</b>                                   | Section 31(10) of the Children Act 1989 states that “where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child”.   |
| <b>Well-being</b>   | <p>The Social Services and Well-being (Wales) Act 2014 defines well-being in relation to any of the following—</p> <ul style="list-style-type: none"> <li>a. physical and mental health and emotional well-being</li> <li>b. protection from abuse and neglect</li> <li>c. education, training and recreation</li> <li>d. domestic, family and personal relationships</li> <li>e. contribution made to society</li> <li>f. securing rights and entitlements</li> <li>g. social and economic well-being</li> <li>h. suitability of living accommodation</li> </ul> <p>In relation to a child, “well-being” also includes—</p> <ul style="list-style-type: none"> <li>a. physical, intellectual, emotional, social and behavioural development</li> <li>b. “welfare” as that word is interpreted for the purposes of the Children Act 1989.</li> </ul> |

# Chapter 1: The framework for safeguarding in Wales – statutory duties, guidance and safeguarding structures

## Section 175 of the Education Act 2002

**1.1** All schools, including independent schools, and Further Education (FE) institutions have statutory duties to operate in a way that takes into account the need to safeguard and promote the welfare of children. This is a statutory duty for local authorities and governing bodies of maintained schools and FE institutions under [section 175 of the Education Act 2002](#). It also applies to proprietors of independent schools by virtue of regulations made under [section 157 of the Education Act 2002](#).

**1.2** The arrangements that local authorities, schools and FE institutions have in place to comply with these statutory duties need to ensure:

- reasonable measures are taken to minimise risks of harm to children's welfare
- appropriate actions are taken to address concerns about the welfare of a child or children, working to agreed local policies and procedures in full partnership with other local agencies.

**1.3** In deciding what arrangements must be made to meet their duties, local authorities and governing bodies must take into account guidance given by the Welsh Government, including the guidance set out in this document. Proprietors of independent schools, independent colleges and independent specialist colleges must comply with this guidance to meet the welfare, health and safety standards prescribed in regulations within [section 157 of the Education Act 2002](#). Appendix 1 and 2 of this guidance provide 'model' arrangements to help support schools in their safeguarding arrangements and should be used as good practice models only. Their application is non-statutory.

**1.4** Where there are statutory requirements, local authorities and education establishments should have in place policies and procedures that satisfy these requirements, as well as complying with any guidance issued by the Welsh Government.

**1.5** Local authorities, governing bodies and proprietors also need to be able to show that they have considered whether children, including individual children, in their area or establishment have any specific safeguarding needs in addition to those covered by guidance, and if so, that they have policies and procedures in place to meet those needs.

**1.6** Failure to have arrangements in place as required by [section 175](#) or to adhere to regulations made under [section 157](#) of the Education Act 2002, or to have regard to guidance issued by the Welsh Government, may be grounds for the Welsh Ministers to take action against local authorities, governing bodies of maintained schools or FE institutions, or proprietors of independent schools.

**1.7** All educational establishments, independent schools and local authorities

are subject to inspection by Estyn and, in some cases, the Care and Social Services Inspectorate Wales (CSSIW). The establishment's ability to safeguard and promote the welfare of children, in accordance with the relevant legislation and guidance, will form part of the inspectorate's judgement of the establishment's overall performance. Performance in this area will not be judged solely on the existence of procedures, but also on their effectiveness in safeguarding children from harm.

**1.8** The responsibility for making sure these arrangements are in place is the duty of the local authority, the governing bodies of maintained schools or FE institutions, and the proprietors of independent schools. Individuals do not have direct liability, except where the proprietor of an independent school happens to be an individual.

**1.9** The legislation does not place duties with head teachers or other members of staff, and does not make them liable for failures in arrangements or regard to Welsh Government guidance. However, head teachers and other members of staff are responsible for carrying out their duties in compliance with the arrangements made by the local authority, governing body or proprietor. Enforcing individual compliance with those arrangements is a matter for the employer under disciplinary procedures.

## **Common law duty of care**

**1.10** The provisions of [section 175](#) of the [Education Act 2002](#) reinforce the existing responsibility of local authorities, governing bodies and proprietors to safeguard and promote the welfare of children. This responsibility is a part of fulfilling their common law duty of care towards the children for whom their organisation or establishment is responsible.

## **Children Act 1989**

**1.11** [Section 17](#) of the [Children Act 1989](#) places a duty on local authorities to safeguard and promote the welfare of children within their area who are in need, and to provide a range and level of services appropriate to those children's needs.

**1.12** [Sections 27](#) and [28](#) require local authorities and other organisations to assist in the exercise of functions, including those under [section 17](#).<sup>2</sup>

**1.13** [Section 47](#) requires local authorities to make child protection enquiries if they are informed a child living or found in their area is subject to an emergency protection order or is in police protection, or if they have reasonable cause to suspect a child in their area is suffering or likely to suffer significant harm. It also requires local authorities to decide, along with other organisations, what action they should take to safeguard or promote the child's welfare.

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<sup>1</sup> From April 2016 sections 17 of the Children Act 1989 and sections 27 and 28 of the Children Act 2004 will be replaced in Wales by sections 15 and 164 of the Social Services and Well-being (Wales) Act 2014

<sup>2</sup> Refer to the duty to cooperate in section 164

## Children Act 2004

**1.14** [Section 25](#) of the [Children Act 2004](#) strengthens the arrangements for protecting and promoting the welfare of children and young people. It places a duty on all local authorities in Wales to promote cooperation within their authority and with relevant partners and bodies, to improve the well-being of children in their area in relation to:

- physical health and well-being
- protection from harm and neglect
- education, training and recreation
- the contribution made by them to society
- social and economic well-being.

**1.15** Under the Act relevant local authority partners are:

- a local health board
- the NHS Trust, all or most of whose hospitals, establishments and facilities are situated in Wales
- the police authority and chief officer of police for a police area in Wales
- the British Transport Police authority, so far as exercising functions in relation to Wales
- a local probation board for an area in Wales
- the Secretary of State in relation to his functions under sections two and three of the [Offender Management Act 2007](#), where it is exercisable in relation to Wales
- a youth offending team for an area in Wales
- the governor of a prison or secure training centre in Wales (or in the case of a contracted out prison or secure training centre, its director)
- any person to the extent that he is providing services pursuant to arrangements made by a local authority in Wales under [section 123\(1\)\(b\) of the Learning and Skills Act 2000 \(c.21\) \(youth support services\)](#).

**1.16** Under [section 28](#) duties are placed on local authorities and their relevant partners to make arrangements to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children. [Section 31](#) sets out the legislative arrangements for the establishment of Local Safeguarding Children Boards (LSCB) in Wales by local authorities, to ensure that relevant partners cooperate to safeguard and promote the welfare of children in their area. The Social Services and Well-being (Wales) Act 2014 provides for new arrangements in establishing Safeguarding Children Boards, which will be implemented in April 2016.

## The Equality Act 2010

**1.17** [The Equality Act 2010](#) imposes statutory duties on local authorities and educational establishments so that all schools in Wales, irrespective of how they are funded or managed, have obligations under the [Equality Act 2010](#) as employers, service providers and bodies which carry out public functions.

**1.18** There are general duties under the Act that the school must fulfil, and there are also specific schools provisions in the [Equality Act 2010](#) (Part 6) which prohibit schools from discriminating against, harassing or victimising:

- prospective pupils (in relation to admissions arrangements)
- pupils at the school (including those absent or temporarily excluded)
- former pupils (if there is a continuing relationship based on them having been a pupil at the school).

**1.19** Local authorities in Wales have obligations under the schools provisions where they are the responsible body for the school, for example, if they are the admissions authority. Local authorities also have obligations as service providers and bodies carrying out public functions. FE providers also have obligations under the Act. The Equality and Human Rights Commission has produced [guidance for schools](#) and [guidance for FE providers](#) giving advice on the specific responsibilities under the Act.

## **The Social Services and Well-being (Wales) Act 2014**

**1.20** The [Social Services and Well-being \(Wales\) Act 2014](#) received Royal Assent in May 2014. The Act will be a pivotal delivery mechanism for implementing and strengthening key aspects of the Welsh Government's safeguarding agenda. The scope of the Act extends beyond social services. Part 2 of the Act sets out the responsibilities in terms of the promotion of well-being and places a duty on local authorities to arrange or provide for services which contribute to the prevention of abuse or neglect. Part 7 provides provisions which will help promote more effective leadership and inter-agency collaboration, remove bureaucracy and duplication and ensure all agencies give sufficient priority to safeguarding.

**1.21** The Act includes provision to establish a new National Independent Safeguarding Board, new Safeguarding Children Boards (alongside provisions to strengthen arrangements for adult safeguarding and protection) and a new *duty to report* which will place a duty on relevant partners to report to relevant agencies where they have suspicions that a child might be at risk of, or experiencing, abuse or neglect. It is anticipated that arrangements under the Act will be implemented from April 2016 and will require new guidance to replace or supplement [Safeguarding Children: Working Together Under the Children Act 2004](#). We will consider the impact of that guidance in the context of safeguarding in education, but until new guidance is published, the existing arrangements set out in this guidance and in [Safeguarding Children: Working Together Under the Children Act 2004](#) should be observed.

## **Safeguarding Children: Working Together Under the Children Act 2004**

**1.22** [Safeguarding Children: Working Together Under the Children Act 2004](#) published by the Welsh Government in 2007 sets out clear advice for the following legislative arrangements:

- the roles and responsibilities of different agencies and practitioners

- the ways in which joint working arrangements should be agreed implemented and reviewed through the mechanism of LSCBs
- the processes which should be followed when there are concerns about a child
- the action which should be taken to safeguard and promote the welfare of children who are suffering, or at risk of suffering, significant harm.

**1.23** All statutory partners on LSCBs, and others whose work brings them into contact with children and families, must take the guidance into account and, if they decide to depart from it, have clear reasons for doing so. This is also relevant to those working in the statutory, voluntary and independent sectors.

**1.24** Supplementary guidance has been issued to safeguard children who are at risk from [child trafficking](#), [witchcraft and spirit possession](#), [fabricated illness](#) and [child sexual exploitation](#). [Statutory guidance on child practice reviews](#), issued in January 2013, replaced chapter 10 of the guidance.

## **The All Wales Child Protection Procedures**

**1.25** The [All Wales Child Protection Procedures](#) reflect day-to-day operational arrangements underpinned by the legislative framework set within [Safeguarding Children: Working Together under the Children Act 2004](#). These procedures support all practitioners and agencies working with children, young people and their families, or with adults who may pose a risk to children. The procedures set out arrangements within which child protection referrals, actions, decisions and plans are made and enacted. They are an integral part of the agenda for safeguarding and promoting the welfare of children in Wales.

**1.26** The procedures reinforce the principle that safeguarding is everyone's business, and that the effective protection of children cannot be achieved by a single agency acting in isolation. The procedures clarify how individuals and agencies should communicate and work together in partnership to identify vulnerable children, keep them safe from abuse and neglect, and improve outcomes for them.

**1.27** The implementation of the procedures can only be effective when supported by good practice, and the exercise of professional skill and judgement based on thorough assessment, supported by evidence and critical analysis. LSCBs have a pivotal role in the promotion and development of professional skills and in ensuring that multi-agency safeguarding training is provided. The procedures help provide operating arrangements which allow different agencies to work together to deliver safeguarding policies, but require clear leadership from LSCBs to coordinate and monitor their implementation at a local level.

**1.28** The procedures are produced and reviewed by the [All Wales Child Protection Procedures](#) Review Group, which has a mandate and representation from all LSCBs and partner agencies in Wales.

## **The Children's Rights Framework**

**1.29** Human rights are guarantees that protect individuals and groups from actions

that affect their freedom and human dignity. Human rights are things that you are entitled to, simply by being a person. They are:

- universal: the same for everyone
- indivisible: equally important
- inalienable: all humans have them and they cannot be taken away

**1.30** Children have unique survival and developmental needs that must be met for them to survive, grow, develop and fulfil their potential. Children need their own set of rights for protection, provision of services and participation to ensure these needs are met, and because they:

- have limited political or social power
- are economically dependent on adults
- are subject to rules that do not apply to other social groups
- are particularly vulnerable to ill treatment by adults and those more powerful than themselves
- grow up aware that they have an inferior status to other social groups and age discrimination is a reality for many
- are key recipients of services
- often lack a voice in service access and delivery.

**1.31** The Welsh Government's [Get It Right website](#) has been designed to help practitioners, policy makers and all stakeholders develop their understanding of children's rights and how to adopt a children's rights perspective in their work.

## **The United Nations Convention on the Rights of the Child (UNCRC)**

**1.32** The United Nations Convention on the Rights of the Child (UNCRC) is an international agreement that protects the human rights of children under the age of 18. There are 54 articles in the UNCRC. Articles 43-45 are about how adults and governments should work together to make sure all children are entitled to their rights. Articles 1-42 set out how children should be treated. In 1991 it was ratified by the UK Government, which formally agreed to ensure that every child in the UK has all the rights listed in the UNCRC.

**1.33** The convention introduces the fundamental principle that the protection of children from harm is the responsibility of all individuals and agencies working with children, young people and their families, and with adults who may pose a risk to children. Key articles are every child and young person has a right to:

- article 12 – have their voice heard in decisions that affect them
- article 19 – be protected from violence, abuse and neglect
- article 28 – an education
- article 29 – an education that is directed to the development of the child's personality, talents and mental and physical abilities



## **The Rights of Children and Young Persons (Wales) Measure 2011**

**1.34** In 2011, Wales became the first administration in the UK to enshrine the UNCRC in domestic law, through the [Rights of Children and Young Persons \(Wales\) Measure 2011](#). The Measure embeds consideration of the UNCRC and the [Optional Protocols](#) into Welsh law, and places Welsh Ministers under a duty to have due regard to the requirements of the UNCRC when making their decisions.

## **The Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill**

**1.35** [The Gender-based Violence, Domestic Abuse and Sexual Violence \(Wales\) Bill](#) is a key priority for the Welsh Government and alongside a package of additional policy measures and seeks to build on the progress made under the '[Right to be Safe](#)' [Strategy \(2010\)](#), for tackling all forms of domestic abuse and violence against women, which includes a specific section on 'enhancing our response in schools.'

## **Local Safeguarding Children Boards**

**1.36** [Section 31\(1\) of the Children Act 2004](#) requires each local authority in Wales to establish an LSCB for their area, which brings together representatives of each of the main agencies and professionals responsible for helping to protect children from abuse and neglect.

**1.37** The objectives of an LSCB are to:

- co-ordinate what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in the area of the authority by which it is established
- ensure the effectiveness of what is done by each such person or body for those purposes.

**1.38** Each local authority takes lead responsibility for the establishment and effective working of its LSCB, although all main constituent agencies are responsible for contributing fully and effectively to the work of the Board. LSCBs are accountable for their work to their main constituent agencies, whose agreement is required for all work which has implications for policy, planning and the allocation of resources. Each Board partner retains their own existing lines of accountability for safeguarding and promoting the welfare of children by their services. The LSCB does not have a power to direct other organisations.

**1.39** The [Local Safeguarding Children Boards \(Wales\) Regulations 2006](#) prescribe the minimum membership of LSCBs, and membership should include the authority's chief education officer or another officer directly accountable to that director who is of sufficient seniority to represent the authority.

**1.40** [Safeguarding Children: Working Together Under the Children Act 2004](#) provides full guidance on requirements for LSCB membership, functions, scope of interest, organisation and governance, accountability, chairing and ways of working.

**1.41** The [Social Services and Well-being \(Wales\) Act 2014](#) provides for the establishment of new Safeguarding Children Boards in Wales (and new Safeguarding Adults Boards). In advance of the legislation coming into force many agencies have collaborated to form new Boards based on the Public Service Delivery footprint. The Welsh Government's intention is that through regulation, 6 Boards will be legally established in Wales in 2016.

## **Child practice reviews: multi-agency professional forums**

**1.42** From 1 January 2013, child practice reviews (CPR) replaced serious case reviews in Wales, to be undertaken in circumstances of a significant incident where abuse or neglect of a child is known or suspected. The Welsh Government issued [statutory guidance](#) to all LSCBs and their partner agencies, which replaces [chapter 10 of Safeguarding Children: Working Together Under the Children Act 2004](#). Arrangements are also governed by the [Local Safeguarding Children Board \(Wales\) \(Amendment\) Regulations 2012](#).

**1.43** The CPR framework consists of three inter-related parts:

- multi-agency professional forums
- concise child practice reviews
- extended child practice reviews.

**1.44** Multi-agency professional forums are the foundation for producing organisational learning, improving the quality of work with families and strengthening the ability of services to keep children safe.

**1.45** The forums have two main purposes:

- case learning: facilitated discussion, consultation and reflection by practitioners, managers or core groups, using a systems approach to examining and analysing individual, current or no longer active cases. These may include complex cases where there have been good outcomes, current cases that have become stuck, or cases which cause professional concern or interest that do not meet the criteria for concise or extended child practice reviews
- dissemination of new knowledge and findings from multi-agency child protection audits and from child practice reviews, inspections or other local or national sources, to ensure continuing local multi-professional learning and development.

**1.46** Further advice on forums and child practice reviews can be found in the statutory guidance.

## Chapter 2: Safeguarding roles and responsibilities in the education service

### Key principles

**2.1** In accordance with the principles in [Safeguarding Children: Working Together Under the Children Act 2004](#), all work to safeguard and promote the welfare of children should be:

**2.2 Child centred:** some of the worst system failures have occurred when professionals lost sight of the child and concentrated instead on their relationship with the adults, including those who work with children. The child should always be seen and kept in focus throughout work with the child and their family. The child's voice should be heard and account taken of their perspective and their views.

**2.3 Rooted in child development:** those working with the children should be informed by a developmental perspective which recognises that, as a child grows, they continue to develop their skills and abilities. Each stage from infancy, through middle years to adolescence lays the foundation for more complex development. Plans and interventions to safeguard and promote the child's welfare should be based on a clear assessment of the child's developmental progress and the difficulties a child may be experiencing. Planned action should also be timely and appropriate for the child's age and stage of development.

**2.4 Outcome focused:** the purpose of all interventions should be to achieve the best possible outcomes for each child recognising each child is unique. Any plan developed for the child and their family or carer should be based on an assessment of the child's developmental needs and the parents or carers capacity to respond to these needs within their community contexts. This plan should set out the intended outcomes for the child and at review the actual outcomes should be recorded.

**2.5 Holistic in approach:** having a holistic approach means having an understanding of a child within the context of the child's family (parents or carers and the wider family) and of the educational setting, community and culture in which the child is growing up. The aim is to understand the child's developmental needs within the family and to provide appropriate services which respond to those needs. The interaction between the developmental needs of children, the capacities of parents or carers to respond appropriately to those needs, and the impact of wider family and environmental factors on children and parenting capacities requires careful exploration during an assessment. The analysis of the child's situation will inform planning and action to secure the best outcomes for the child, and will inform the subsequent review of the effectiveness of actions taken and services provided. The child's context will be even more complex when they are living away from home and looked after by adults who do not have parental responsibility for them.

**2.6 Founded on equality of opportunity:** equality of opportunity means that all children have the opportunity to achieve the best possible development regardless of their gender, ability, ethnicity, circumstances or age. Some vulnerable children may have been particularly disadvantaged in their access to important opportunities and

their health and educational needs will require particular attention to optimise their current welfare as well as their long-term outcomes in young adulthood.

**2.7 Built on strengths as well as identifying and addressing difficulties:**

identifying strengths and difficulties within the child, his or her family and the context in which they are living is important, as is considering how these factors have an impact on the child's health and development. Too often it has been found that, in practice, a deficient model of working with families predominates, ignoring crucial areas of success and effectiveness within the family on which to base interventions. Working with a child or family's strengths becomes an important part of a plan to resolve difficulties.

**2.8 A multi-agency approach:** from birth, there will be a variety of agencies and community programmes involved with children and their development, particularly in relation to their health and education. Multi and inter-agency work to safeguard and promote children's welfare starts as soon as there are concerns about a child's welfare, not just when there are questions about possible harm.

**2.9 A continuing process:** understanding what is happening to a vulnerable child in the context of their family and local community, and taking appropriate action, are continuing, interactive processes and not single events. Action and services should be provided according to the identified needs of the child and family, in parallel with monitoring and reviewing assessment where necessary. It is not necessary to await completion of the assessment process. Immediate and practical needs should be addressed alongside more complex and longer-term ones.

**2.10 Informed by evidence:** effective practice with children and families requires sound professional judgements which are underpinned by a rigorous evidence base and draw on practitioner knowledge and experience.

**2.11 Alert to children's welfare:** all those who have contact with children should be able to recognise, and know how to act upon, evidence that a child's health or development is or may be being impaired especially when they are suffering or at risk of suffering significant harm. Practitioners should always be mindful of the welfare and safety of children – including unborn children and older children. All professionals, and especially those in education, health and social care should be able to recognise situations where a child needs extra help or support to prevent impairment to their health or development. They should also be able to recognise situations where there are possible indicators of abuse or neglect. All staff should always be mindful of the welfare and safety of children in their work, and familiar with the core standards set out in the National Service Framework for Children, Young People and Maternity Services.

**2.12 Involve children and families:** in the process of finding out what is happening to a child it is important to listen and develop an understanding of his or her wishes and feelings. The importance of developing a co-operative working relationship is emphasised, so that parents or carers feel respected and informed, they believe agency staff are being open and honest with them. In turn, they will be confident about providing vital information regarding their child, themselves and their circumstances. The consent of children, young people and their parents or carers

should be obtained when sharing information, unless to do so would place the child at risk of harm. Decisions should also be made with their agreement, whenever possible, unless to do so would place the child at risk of harm.

**2.13** The following sections set out the specific safeguarding roles and responsibilities of the local authority, the governing body of schools and FE institutions, the head teacher or principal, and proprietors of independent schools.

## **Responsibilities of local authorities**

**2.14** The welfare of children is a corporate responsibility of the entire local authority. Other public bodies must also discharge their duties having regard to the need to safeguard and promote the welfare of children in Wales under [section 28 of the Children Act 2004](#).

### **Local authority designated lead officer**

**2.15** Local authorities should ensure that an appropriate senior officer within its education department is designated to have lead responsibility for discharging its safeguarding duties in education, with a particular focus on child protection. The range of responsibilities attributed to this designated officer post should be consistent with the need to ensure that effective safeguarding arrangements operate within the authority's education department.

**2.16** Local authorities have responsibilities at three levels:

### **Strategic responsibilities**

**2.17** At this level the local authority should ensure:

- all partners allocate resources to support the work of the Local Safeguarding Children Board (LSCB)
- senior officers, including education, represent the authority on the LSCB and that the authority makes an effective contribution to planning co-ordinated services to meet the needs of children
- work with other agencies to put in place and support effective partnership working
- resources are allocated to enable the authority and maintained schools to discharge their responsibilities for safeguarding children satisfactorily
- effective liaison with the appropriate diocesan authorities in respect of arrangements for aided schools in their area
- monitor the compliance of maintained schools with this guidance, in particular in regard to employment checks (including temporary and agency staff), the existence and operation of appropriate policies and procedures and the training of staff, including the senior person with designated responsibility for child protection in schools. Bring any deficiencies to the attention of the governing body of the school and advise upon the action needed to remedy them
- resolve inter-agency problems as soon as they are identified
- play a full part in child practice reviews in accordance with [Protecting](#)

[children in Wales: guidance for arrangements for multi-agency child practice reviews](#) and review and revise procedures and training in light of the findings of reviews, and disseminate information about relevant findings to those with responsibility for child protection in the authority and maintained schools.

## Support responsibilities

2.18 At this level the local authority should:

- ensure that induction training for all new staff in the authority, and staff who will work with children in maintained schools, includes training on safeguarding that will enable them to fulfil their responsibilities effectively in respect of child protection. The authority should also ensure that suitable refresher training to keep staff knowledge and skills up-to-date is completed. Governors of maintained schools should also receive appropriate training on their safeguarding responsibilities and in handling allegations of abuse against school staff.
- ensure that further training in inter-agency working to safeguard children, either provided by the LSCB or meeting the standards set out by the Board, is available for all staff appointed to have responsibility for child protection. Suitable refresher training should also be available and meet the standard set by the Board.
- maintain a record of all designated senior persons (DSPs) (see section 2d) and designated governors for child protection (see section 2b) within schools in their area, as well as the training undertaken and the dates on which training was undertaken
- provide model policies and procedures for maintained schools on all aspects of child protection, including recruitment, and procedures for dealing with allegations of abuse against staff and volunteers. The policies and procedures must be consistent with Welsh Government guidance (in particular the model policy and statutory guidance issued in [Safeguarding in Education: Handling Allegations of Abuse against School Staff \(009/2014\)](#), [Disciplinary and Dismissal Procedures for School Staff \(002/2013\)](#) and LSCB agreed procedures for interagency working, as appropriate). A (non-statutory) model child protection policy is in Appendix 1
- oversee allegations of abuse, liaising with the police and social services, and provide advice, guidance and support for maintained schools and DSPs in those establishments about dealing with individual cases. Where necessary, the authority should act on their behalf to resolve any difficulties with, or obtain appropriate support from, LSCB partner agencies, and liaise with maintained schools, agencies and FE institutions to ensure referrals are made to the Disclosure and Barring Service/General Teaching Council for Wales (DB/GTCW).
- have in place arrangements to support staff within the authority and maintained schools, who have designated lead responsibility for child protection. These arrangements should encourage and foster a good understanding and working relationship between them, children's social workers and staff in other agencies involved in safeguarding children, to



develop effective partnership working.

## **Operational responsibilities**

**2.19** At this level the local authority should:

- operate safe recruitment procedures and make sure that all appropriate checks are carried out on new staff and unsupervised volunteers who will work with children, including Disclosure and Barring Service checks
- safeguard and promote the welfare of children who have not been allocated a school place, or are excluded from school, including those being educated in pupil referral units, alternative provision or via the home tutor service
- seek to build effective relationships with home educators that function to safeguard the educational interests and welfare of children and young people. Doing so will provide parents with access to any support that is available and allow authorities to understand the parents' educational provision. For further information refer to [chapter 6 of Welsh Government Circular 47/2006: Inclusion and Pupil Support](#). New guidance for local authorities on home education will be developed for public consultation by May 2015. It is anticipated that this guidance will be finalised by September 2015
- have in place arrangements for overseeing allegations of abuse against members of staff in the authority, schools and FE institutions in line with [Safeguarding in Education: Handling Allegations of Abuse against School Staff \(009/2014\)](#). For schools, the Welsh Government has issued guidance [Disciplinary and Dismissal Procedures for School Staff \(002/2013\)](#) which includes a model policy
- work with schools and LSCB partner agencies to ensure that allegations are dealt with quickly, fairly and consistently, and that appropriate referrals are made to the DBS and the GTCW.
- ensure that the authority's staff who work with children (including any staff carrying out functions on behalf of the authority) who work with children receive training that equips them to carry out their responsibilities for child protection effectively.

## **Responsibilities of governing bodies/proprietors**

**2.20** Governing bodies are accountable for ensuring effective policies and procedures are in place to safeguard and promote the welfare of children in accordance with this guidance, and monitoring its compliance with them.

**2.21** Governing bodies of maintained schools, governing bodies (Corporations) of FE institutions, and proprietors of independent schools should ensure that their respective organisations:

- have effective child protection policies and procedures in place that are:
  - in accordance with local authority guidance and locally agreed inter-agency procedures

- inclusive of services that extend beyond the school day (e.g. boarding accommodation, community activities on school premises, etc.)
  - reviewed at least annually
  - made available to parents or carers on request
  - provided in a format appropriate to the understanding of children, particularly where schools cater for children with additional needs
- operate safe recruitment procedures that take account of the need to safeguard children and young people, including arrangements to ensure that all appropriate checks are carried out on new staff and unsupervised volunteers who will work with children, including relevant DBS checks
  - ensure that the head teacher/principal and all other permanent staff and volunteers who work with children undertake appropriate training to equip them with the knowledge and skills that are necessary to carry out their responsibilities for child protection effectively, which is kept up-to-date by refresher training
  - give clear guidance to temporary staff and volunteers providing cover during short-term absences and who will be working with children and young people on the organisation's arrangements for child protection and their responsibilities
  - ensure that the governing body/proprietor remedies without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to its attention
  - ensure that the designated senior person (DSP) for child protection, the designated governor and the chair of governors undertakes training in inter-agency working that is provided by, or to standards agreed by, the LSCB and refresher training to keep their knowledge and skills up to date, in addition to basic child protection training.

## **Designated governor**

**2.22** Identify a designated governor for child protection to:

- take responsibility for child protection matters
- ensure the governing body reviews the school's policies and procedures annually
- be the designated governor to maintain contact with the statutory authorities in relation to child protection staff disciplinary cases as set out in Welsh Government guidance [Disciplinary and Dismissal Procedures for School Staff \(002/2013\)](#), and
- ensure that the governing body/proprietor undertakes an annual review of safeguarding policies and procedures and how the above duties have been discharged.

**2.23** While governing bodies have a role in exercising their disciplinary functions in respect of child protection allegations against a member of staff, they do not have a role in the consideration of individual cases which will be investigated under arrangements set out in [Safeguarding children in education: handling allegations of](#)



[professional abuse against teachers and other staff](#) (Welsh Government circular 009/2014 published in April 2014).

**2.24** Whether the governing body acts collectively or an individual member takes the lead, for the governing body to have an effective policy in place and for the designated governor to have confidence in their role, it is helpful if all members of governing bodies undertake relevant child protection training. This ensures they have the knowledge and information needed to perform their functions and understand their wider safeguarding responsibilities. Other useful information on the role of governors in child protection can also be found on the [Governors Wales website](#).

## **Responsibilities of headteachers/principals**

**2.25** Head teachers and principals of all schools and FE institutions should ensure that all staff (including supply teachers and volunteers):

- are aware of child protection policies and procedures adopted by the governing body or proprietor are fully implemented and followed by all staff
- can access sufficient resources and time to enable them to discharge their responsibilities, including taking part in strategy discussions and other inter-agency meetings, and contributing to the assessment of children
- understand the procedures for safeguarding children, and feel able to, raise concerns about poor or unsafe practice and that such concerns are addressed sensitively and effectively in a timely manner in accordance with agreed Welsh Government [Procedures for Whistleblowing in Schools and Model Policy](#)
- as part of their induction, are given a written statement about the school's policy and procedures, and the name and contact details of the DSP for child protection when they start work in a new establishment

## **Responsibilities of the designated senior person (DSP) for child protection**

**2.26** Each school or FE institution should identify a designated senior person (DSP) with lead responsibility for managing child protection issues and cases. The DSP should know how to recognise and identify the signs of abuse and neglect and know when it is appropriate to make a referral to the relevant investigating agencies. The role involves providing advice and support to other staff, making referrals to and liaising with the LSCB and working with other agencies as necessary. The DSP role is not to investigate allegations, but they must keep the head teacher informed of all child protection issues in the establishment.

**2.27** The DSP need not be a teacher, but must be a senior member of the school or FE institution's leadership team with the status and authority within the organisation to carry out the duties of the post, including committing resources to child protection matters, and where appropriate directing other staff. Dealing with individual cases may be a responsibility of the education welfare officer or other

student support arrangements, but it is important that a senior member of staff takes responsibility for this area of work.

**2.28** In many schools or FE institutions a single designated person will be sufficient, but a deputy should be available to act in their absence. In establishments which are organised on different sites or with separate management structures, there should be a designated person for each part or site. In large organisations, or those with a large number of child protection concerns, it may be necessary to have a number of deputies to deal with the responsibilities.

**2.29** The establishment must also make arrangements to cover the role of the DSP when that person is unavailable. In many cases, there will be a deputy DSP in place and larger schools may have a team of staff working together.

**2.30** The DSP does not have to be an expert in the area of child protection but will take responsibility for the establishment's child protection practice, policy, procedures and professional development working with other agencies as necessary. The head teacher should ensure that the DSP:

- is given sufficient time and resources to carry out the role effectively, which should be explicitly defined in the post holder's job description
- has access to required levels of training and support to undertake the role
- has time to attend and provide reports and advice to case conferences and other interagency meetings as required.

## Referrals

**2.31** The DSP should act as a point of contact and a source of support, advice and expertise within the educational establishment when deciding whether to make a referral by liaising with relevant agencies.

**2.32** The DSP is responsible for making referrals about allegations of suspected abuse to the relevant investigating agencies. Where these relate to cases of suspected abuse or allegations of abuse against staff, the process is set out in [Disciplinary and Dismissal Procedures for School Staff \(002/2013\)](#) and [Safeguarding children in education: handling allegations of abuse against teachers and other staff \(009/2014\), published in April 2014.](#)

## Record keeping

**2.33** It is the responsibility of the DSP to keep detailed, accurate and secure written records of children where there are safeguarding concerns. These records are confidential and should be kept separately from pupil records. They should include a chronology of concerns, referrals, meetings, phone calls and emails.

**2.34** Where children leave the establishment, the DSP should ensure their child protection file is copied to the new establishment as soon as possible but transferred separately from the main pupil file.

## Raising awareness

**2.35** The DSP is responsible for ensuring that parents or carers see copies of the child protection policy. This avoids potential for later conflict by alerting them to the role of the establishment and the fact that referrals may be made. Many schools include information about this at induction meetings for new parents, in their prospectus and on their website.

**2.36** It is good practice for the DSP to provide an annual briefing and regular updates at staff meetings on any new child protection issues or changes in local procedures. This ensures that all staff are kept up-to-date and are regularly reminded of their responsibilities, and the school's policies and procedures. Many schools find it helpful to discuss safeguarding regularly at staff meetings so that awareness remains high.

**2.37** The DSP should liaise with the designated governor for child protection, so that the designated governor can report on safeguarding issues to the governing body. Reports to the governing body should not be about specific child protection cases, but should review the safeguarding policies and procedures. It is good practice for the nominated governor and the DSP to present the report together.

**2.38** The DSP should ensure the establishment's child protection policy is updated and reviewed annually, and work with the governing body or proprietor regarding this.

## Policy review

**2.39** As well as the school policy for child protection, there are other policies which have relevance to safeguarding and the DSP may be involved in monitoring the effectiveness of these other policies to ensure the school safeguards its pupils. Other relevant policies include:

- attendance
- behaviour
- staff code of conduct
- anti-bullying
- intimate care
- recruitment and selection
- e-safety
- physical intervention
- confidentiality

**2.40** Further support and guidance on the role of the DSP may be obtained from the local authority. The NSPCC also provides helpful [resources and guidance](#).

## Child protection and multi-agency training

**2.41** It is the role of the DSP, working with the head teacher, to ensure all staff and volunteers:

- have access to and understand the school's child protection policy especially new or part-time staff who may work with different educational establishments
- have induction and refresher training covering child protection, an

understanding of safeguarding issues including the causes of abuse and neglect

- are able to recognise the signs and indicators of abuse
- know how to respond effectively when they have concerns
- know how to respond to a disclosure appropriately
- know that they have a responsibility to report any concerns immediately as they arise.

**2.42** Records should be kept by the DSP of the dates of the training, details of the provider and a record of staff attendance at the training.

**2.43** In addition to the requirement for the chair of governors and the designated governors to undertake child protection, all governors should be given access to safeguarding and child protection training (not just the [designated governor for child protection](#)) to ensure a basic and consistent level of awareness. Governing bodies are responsible for ensuring the school's policies and procedures for child protection meet statutory requirements and all governors should know what to do if they have concerns about a child.

**2.44** Teachers should receive training in child protection as part of the course of training leading to Qualified Teaching Status (QTS), but this will need to be reinforced by further training, or refresher training, when they are first appointed. The QTS Standards are a set of outcome statements that trainee teachers have to meet which are linked to other publications and statutory requirements as appropriate. Trainees must be able to evidence that they establish a purposeful learning environment for all children where learners feel secure and confident.

**2.45** Trainees are also required to demonstrate professionalism to ensure that relationships with learners are built on mutual trust and respect, and to recognise that this will help maximise their learning potential. Trainees are expected to evidence this standard by being able to demonstrate knowledge and awareness of the rights and entitlements of all learners, as laid out in the United Nations Convention on the Rights of the Child (UNCRC) and key Welsh Government policies.

**2.46** Other staff and governors should receive training when they are first appointed. All staff who do not have designated responsibility for child protection, including teachers, should undertake suitable refresher training at regular and appropriate intervals thereafter, to keep their knowledge and skills up-to-date.

**2.47** Individual agencies are responsible for ensuring that staff have the competence and confidence to carry out their responsibilities for safeguarding and promoting children's welfare. The LSCB will be able to provide advice on the minimum levels of training required by staff to ensure they are able to comply with locally agreed procedures.

**2.48** Further information on inter-agency training and development is set out in chapter 11 of [Safeguarding Children: Working Together Under the Children Act 2004](#).

**2.49** The purpose of multi-agency training is to achieve better outcomes for children and young people including:

- a shared understanding of the tasks, processes, principles, and roles and responsibilities outlined in national guidance and local arrangements for safeguarding children and promoting their welfare
- more effective and integrated services at both the strategic and individual case level
- improved communications between professionals including a common understanding of key terms, definitions, and thresholds for action
- effective working relationships, including an ability to work in multi-disciplinary groups or teams
- sound decision-making based on information sharing, thorough assessment, critical analysis, and professional judgement.

**2.50** The DSP should receive prompt training in inter-agency procedures that enables them to work in partnership with other agencies, and gives them the knowledge and skills needed to fulfil their responsibilities. They should also undertake refresher training to keep their knowledge and skills up-to-date.

**2.51** Other staff should receive training when they are first appointed and undertake suitable refresher training to keep their knowledge and skills up to date.

**2.52** The revised [Becoming a Qualified Teacher: Handbook of Guidance](#) was published by the Welsh Government in January 2014. This reflected recent changes to the initial teacher training (ITT) entry requirements in Section 2 of the document – Requirements for the Provision of ITT Courses. This section provides information for ITT providers on the latest guidance on safeguarding children in education.

## **Responsibilities of independent schools**

**2.53** The Welsh Ministers are the registrar of independent schools in Wales. Any establishment wishing to operate as an independent school must apply to the Welsh Ministers for registration in accordance with [section 160 of the Education Act 2002](#). It is an offence under section 159 for any person to conduct an independent school which is not registered.

**2.54** The [Independent Schools Standards \(Wales\) Regulations 2003](#) set out the standards to which an independent school will be inspected under sections 160(4) and 163(2) of the Education Act 2002. [Standard 3](#) is specific to safeguarding and promoting the welfare, health and safety of children who are pupils at the school. These standards will be used to assess whether the school is complying with its legal obligation to safeguard and promote the welfare, health and safety of children who are pupils at the school. Where an application for registration is received, the Welsh Ministers will notify Estyn, who will carry out an inspection of the school and report to Welsh Ministers on the extent to which the Independent Schools Standards are met. The Welsh Ministers will take into account Estyn's report, and any other evidence relating to the Independent Schools Standards, to determine whether standards are met and to notify the proprietor of its conclusion.

**2.55** Proprietors of independent schools have similar responsibilities to those of governing bodies of maintained schools but cannot rely on local authorities to provide

advice and support in the same way as they do for maintained schools. Authorities are able to provide these services to independent schools, and many do, charging appropriate fees for the work. However, they have no obligation to provide these services. As with FE institutions, independent schools that do not purchase services from a local authority can approach the LSCB for advice.

**2.56** Social services and LSCBs offer the same level of support and advice to independent schools in matters of child protection as they do to maintained schools. It is important that these channels of communication are upheld and developed, so that children requiring support receive prompt attention and any allegations of abuse can be properly investigated. In cases where the proprietor is not the head teacher, the proprietor should liaise with other agencies in the event that allegations are made involving the head teacher. Where the head teacher is also the proprietor, specific arrangements should be agreed with the LSCB.

**2.57** Independent schools which provide medical and/or nursing care should ensure that their medical and nursing staff engage with and access appropriate advice and multi-agency training on child protection.

## **Responsibilities of independent schools offering boarding provision**

**2.58** Proprietors of independent schools who provide accommodation for children will be aware that such establishments are required to register with both the Welsh Government and the Care and Social Services Inspectorate Wales (CSSIW). Such independent schools are then subject to inspection by Estyn and CSSIW. The Welsh Government has published guidance on the [National Minimum Standards \(NMS\) for Residential Special Schools](#) and the [National Minimum Standards for Mainstream Boarding Schools](#) to be met as part of independent schools' initial and continued registration.

**2.59** The [Independent Schools Standards \(Wales\) Regulations 2003](#) set out standards to safeguard and promote the welfare of children for whom accommodation is provided by a boarding school. These standards are used to assess whether the school is complying with its legal obligation to safeguard and promote the welfare of the children for whom accommodation is provided.

## **Further education institutions**

**2.60** The statutory responsibilities for safeguarding and child protection only apply in relation to students who are under 18 years of age. As autonomous bodies, FE institutions cannot rely automatically on local authorities to provide advice, support, access to training, policies and procedures, etc. Local authorities are free to provide those services to FE institutions, but have no obligation to do so. Services can be provided free of charge. Institutions that do not purchase services from a local authority can approach the LSCB for advice.

**2.61** Where an institution provides education and/or training for pupils under 16 years of age who are on the roll of secondary schools, the designated person liaises with the schools concerned and ensures that appropriate arrangements are in place to safeguard the children; including matters such as registration of pupils and

arrangements for attendance throughout the day.

## **Responsibilities of community-focused schools, pre- and post-school activities providers and out of hours learning providers**

**2.62** The governing body of a school controls the use of the school premises both during and outside school hours, except where a trust deed allows a person other than the governing body to control the use of the premises, or a transfer of control agreement has been made. Governing bodies can enter into transfer of control agreements in order to share control of the school premises with another body, or transfer control to it. The other body, known as the “controlling body”, will control the occupation and use of the premises during the times specified in the agreement. Transferring control of the premises to local community groups, sports associations and service providers can enable school facilities to be used without needing ongoing management or administrative time from school staff.

**2.63** Where the governing body provides services or activities directly under the supervision or management of school staff, the school’s arrangements for child protection will apply. Where services or activities are provided separately by another body, the governing body must confirm that the body concerned has appropriate policies and procedures in place in regard to safeguarding children and child protection and there are arrangements to liaise with the school on these matters where appropriate.



## **Chapter 3: Responding to individual safeguarding concerns within the education service**

### **The All Wales Child Protection Procedures**

**3.1** This chapter sets out what people should do if they are concerned that a child is being abused, or if they suspect that there is a risk of abuse or neglect. It is important reading for all individuals working with and caring for children, young people and their families, or with adults who may pose a risk to children. It also describes the procedures to be followed when a report of child abuse or neglect has been made.

**3.2** The [All Wales Child Protection Procedures](#) provide common standards to guide child protection practice and a framework within which individual child protection referrals, actions, decisions and plans are made and carried out. They are an integral part of the agenda for safeguarding and promoting the welfare of children. The diagram at Appendix 3 illustrates the child protection referral process.

### **Shared responsibility of implementing the procedures**

**3.3** The procedures are based on the fundamental principle that the protection of children from harm is the responsibility of all individuals and agencies working with children, young people and their families, or with adults who may pose a risk to children. The effective protection of children cannot be achieved by a single agency acting on its own. This chapter clarifies how individuals and agencies should communicate and work together to identify vulnerable children, keep them safe from abuse and neglect, and improve outcomes for them.

**3.4** The procedures can only be effective when supported by good practice, and professional skill and judgement, based on thorough assessment, and supported by evidence and critical analysis. Local Safeguarding Children Boards have a responsibility to ensure that the [All Wales Child Protection Procedures](#) are implemented fully within their areas, including within education services, and to monitor their effectiveness.

**3.5** All child protection concerns should be managed within the arrangements set out in the procedures.

**3.6** Everyone in education services who comes into contact with children and their families has a role to play in safeguarding children. School and college staff are particularly important as they are in a position to identify concerns early and provide help for children to prevent issues from escalating. School and college staff form part of the wider safeguarding system for children. This system is described in chapter 1 of this guidance and set out in [Safeguarding Children: Working Together Under the Children Act 2004](#). Schools and colleges should work with local authorities, the police, health services and other services to promote the well-being of children and protect them from harm. Each school and college should have a designated senior person (DSP) for child protection (the role of the DSP is set out in chapter 2) who will provide support to staff members to carry out their safeguarding duties and who will liaise closely with other services such as children's social care.



**3.7** Local authority counselling services also have a role to play in safeguarding children. From April 2013 local authorities have been required, under the [School Standards and Organisation \(Wales\) Act](#), to make reasonable provision of counselling services for all children and young people aged between 11 and 18 in their area and pupils in year 6 of primary school. Counsellors are in a position to determine whether there are any child protection concerns that require onward referral.

**3.8** Everyone working in education services should safeguard children's well-being and maintain public confidence as part of their professional duties. Staff have a responsibility to provide a safe environment and to identify children who may be in need of extra help or who are suffering, or are likely to suffer, significant harm. All staff then have a responsibility to take appropriate action, working with other services as needed. In addition to working with the DSP, staff members should be aware that they may be asked to support social workers to take decisions about individual children.

### **Required information for education services staff**

**3.9** All staff members – permanent or temporary - should be aware of systems which support safeguarding and these should be explained to them as part of staff inductions. This includes the child protection policy, the staff behaviour policy and identifying the individual who fulfils the role of DSP. All staff members should also receive appropriate child protection training which is updated regularly.

### **Signs that education services staff should look out for**

**3.10** All staff members should be aware of the signs of abuse and neglect so that they are able to identify cases of children who may be in need of help or protection. Where safeguarding is concerned, staff members working with children are advised to maintain vigilance and be aware that abuse and neglect could affect pupils in their schools. When there are concerns about the welfare of a child, staff members should always act in the interests of the child. Knowing what to look for is vital to the early identification of abuse and neglect. If staff members are unsure they should always speak to children's social care.

### **Action to take should a school or college staff have concerns about a child**

**3.11** If staff members have concerns about a child they should raise these with the DSP. The DSP will usually decide whether to make a referral to social services, but it is important to note that any staff member can refer their concerns to social services or the police directly.

**3.12** If, at any point, it is judged that there is a risk of immediate serious harm to a child, a referral should be made to social services immediately. If the child's situation does not appear to be improving the staff member with concerns should press for re-consideration. Concerns should always lead to help for the child at some point. The staff member should continue to stay in touch with the process and press for action if they are not satisfied with the response to their notification or referral.

**3.13** It is important for children to receive the right help at the right time to address risks and prevent issues escalating. Research has shown the dangers of failing to take effective action. Poor practice includes failing to act on the early signs of abuse and neglect, poor record keeping, failing to listen to the views of the child, failing to re-assess concerns when situations do not improve, sharing information too slowly and a lack of challenge to those who appear not to be taking action.

### **Appropriate response from education services staff with child protection concerns**

**3.14** A child, parent, caregiver, relative or member of the public who expresses concerns about a child's welfare to a professional and/or agency employee must never be asked to make a self-referral to social services or the police. The professional and/or agency employee must make the referral.

**3.15** Every person in education services who has contact or works with children, young people and their families, or with adults who may pose a risk to children, as well as those people with responsibility for arranging services for children, should:

- treat the child's welfare as paramount
- understand their role and responsibilities to safeguard and promote the welfare of children
- have access to and comply with [the All Wales Child Protection Procedures](#) which set out how to identify vulnerable children, keep them safe from abuse and neglect, and improve outcomes for them
- understand the principles and practice contained in [Safeguarding Children: Working Together Under the Children Act 2004](#)
- be familiar with and follow their organisation's procedures and protocols for safeguarding and promoting the welfare of children and know who to contact in their organisation to express concerns about a child's welfare
- know when and how to refer any concerns about child abuse and neglect to social services or the police
- have received child protection training to a level commensurate with their role and responsibilities
- be aware of the impact and effects of abuse and neglect on children
- be alert to indicators of abuse and neglect, and aware of the risks which individual abusers, or potential abusers, may pose to children
- work co-operatively with the parents, unless this is inconsistent with the need to ensure the child's safety
- recognise when a parent or caregiver has compromised parenting capacity, that is, problems which may affect their capacity to provide effective and appropriate care, or which may mean they pose a risk of harm to a child
- share and help to analyse information so that an informed assessment can be made of the child's needs and circumstances
- contribute as necessary at all stages of the child protection process
- contribute to regular reviewing of the outcomes for the child against specific shared objectives

- be committed to co-operating fully with all other agencies in the interests of safeguarding children.

**3.16** If a child informs an education services staff member that they or another young person is being abused, the staff member should:

- show the child that they have heard what the child is saying, and that they take their allegations seriously
- encourage the child to talk, but not prompt, jump to conclusions or ask leading questions
- not interrupt when the child is recalling significant events and not make the child repeat their account
- explain what actions they will then take, in a way that is appropriate to the age and understanding of the child
- not promise to keep what they have been told secret or confidential, as they have a responsibility to disclose information to those who need to know: reporting concerns is not a betrayal of trust
- report their concerns to their line manager or (if appropriate) the member of staff in their organisation with designated responsibility for child protection
- ensure that their concerns are immediately reported to the duty social worker at the local office, without delay
- write down as soon as they can, and no later than 24 hours, what they have been told, using the exact words if possible
- not confront the alleged abuser
- not worry that they may be mistaken; they will always be taken seriously by social services. It is better to have discussed it with somebody with the experience and responsibility to make an assessment
- make a note of the date, time, place and people who were present at the discussion.

## **Seeking advice on concerns**

**3.17** Suspicion about child abuse may take the form of concerns rather than known facts. Child welfare concerns can arise in many different contexts, including when a child is already known to the social services. It is important that these concerns are logged, recorded and appropriately monitored by the member of staff and/or the safeguarding lead. This ensures that a coherent picture exists of the likelihood of abuse and neglect and provides support for a referral to social services.

**3.18** Where a staff member has concerns but is seeking further advice, this should be available from the DSP, their own agency or from social services.

**3.19** Concerns can and should be shared with social services through a referral, though often following a discussion with the DSP if appropriate, who can advise and manage the referral process. While concerns will not necessarily trigger an investigation, they help to build up a picture, along with concerns from other sources, which suggests that a child may be suffering harm.

**3.20** Accurate, concise and clear record-keeping in straightforward language is an

essential part of an individual employee and professional's accountability towards people using their services, and underpins good child protection practice. All agencies involved in safeguarding and promoting the welfare of children must have policies and procedures specifying arrangements for the retention, storage and destruction of electronic and paper case records. The policies should ensure that case records are stored safely and can be retrieved as required.

## **Investigations**

**3.21** Schools must not undertake their own internal child protection enquiries, but refer their concerns. If the concern involves a member of staff, agencies must not make their own internal decisions about whether it is a disciplinary issue or a child protection matter. Agencies should be mindful that the police have statutory powers and responsibility for determining whether a criminal investigation is to be undertaken.

## **Making referrals**

**3.22** Referrals should be made to social services as soon as a problem, suspicion or concern about a child becomes apparent, and certainly within 24 hours. Outside office hours, referrals should be made to the social services emergency duty service or the police.

**3.23** Both in-person and telephone referrals should be confirmed in writing within two working days, preferably using a local standard form where provided.

**3.24** All individual employees and independent contractors should be aware that they cannot remain anonymous should they make a referral.

## **Engaging in the child protection process**

**3.25** Any member of staff making a referral may be asked to do some or all of the following tasks. The school or FE institution should ensure that staff have sufficient time and other necessary resources to discharge these tasks effectively and staff should be prepared and willing to do them:

- assist in the child protection [section 47 of the Children's Act 1989](#) enquiries
- attend the child protection conference
- provide a written report for the child protection conference
- contribute to the initial and core assessments, and attend core group meetings.

**3.26** Where a child of school age is the subject of an inter-agency child protection plan, the school should be involved in the preparation of the plan. The school's role and responsibilities in contributing to actions to safeguard the child, and promoting his or her welfare, should be clearly identified.

## **Listening to children**

**3.27** Experience, and consultation with children, shows that they will talk about

their concerns and problems to people they feel they can trust and are comfortable with. This will not necessarily be a teacher. It is therefore essential that all staff and volunteers in a school or establishment know how to respond sensitively to a child's concerns, who to approach for advice about them, and the importance of not guaranteeing complete confidentiality.

**3.28** Children want to know that they will be listened to and their concerns will be taken seriously, so all education establishments should seek to demonstrate to children that they provide them with a safe environment where it is beneficial to talk about matters which affect them. Displaying information of national children's helplines ([Children's Commissioner](#), [ChildLine](#), [Meic](#), [NSPCC](#)) and peer support schemes, in easily accessible places, such as pupils' year planners, can encourage them to share concerns and receive help.

**3.29** [Research by the NSPCC](#) found that on average it took seven years for young people to disclose sexual abuse. The young people said they wanted: someone to notice that something was wrong to be asked direct questions; professionals to investigate sensitively but thoroughly; and to be kept informed about what was happening. Young people in this research tried to tell an adult about the abuse but many disclosures were either not recognised or understood, or they were dismissed, played down or ignored. Some children and young people disclose abuse directly and verbally, and others attempt disclosures indirectly, behaviourally and non-verbally. Disclosure – especially at the time of abuse – is rarely a straightforward process of revealing clearly that they have been abused. Positive experiences of disclosures were when: the child was believed; some action was taken to protect the child; and emotional support was provided.

**3.30** Any member of staff or volunteer who is approached by a child wanting to talk should listen positively and reassure the child. They should record the discussion with the pupil as soon as possible and take action in accordance with the establishment's child protection procedures.

**3.31** Disabled children may be especially vulnerable to abuse, for example those who have difficulty communicating. Learning support assistants working with children with special educational needs and disabilities provide close support to them and may encounter indications of possible abuse. While extra care may be needed to ensure that signs of abuse and neglect are interpreted correctly, any suspicions should be reported in exactly the same manner as for other children.

**3.32** The way in which a member of staff talks to a child who discloses abuse could have an effect on the evidence that is put forward if there are subsequent proceedings. If a child makes a disclosure to a member of staff, the staff member should write a record of the conversation as soon as possible, distinguishing clearly between fact, observation, allegation and opinion, noting any action taken in cases of possible abuse, and signing and dating the note.

## **Duty of confidentiality**

**3.33** Many professionals are under a duty of confidentiality. This is important in maintaining confidence and participation in services and thereby helping to protect

children's health and well-being. But, as relevant guidelines make clear, the duty of confidentiality is not absolute and may be breached where this is in the best interests of the child and in the wider public interest. If professionals judge that disclosure is necessary to protect the child or other children from a risk of serious harm, confidentiality may be breached.

**3.34** Where professionals judge that there is a need to share confidential information with children's social services or the police:

- they should attempt to support the child, where the child is the source of the information, to agree to a disclosure of information within a reasonable timescale
- they may initially discuss the case anonymously with others, such as a colleague with suitable competence in child protection work or with children's social services
- the child should be informed of the professional's need to share confidential information, unless to do so would seriously jeopardise their safety
- any decision to share information or not should be properly documented.

**3.35** Decisions in this area may need to be made by, or with the advice of, people with suitable competence in child protection work, such as named or designated professionals.

## **Parent or carer involvement**

**3.36** All parents and carers need to understand that schools and FE institutions have a duty to safeguard and promote the welfare of children who are their pupils or students, that this responsibility necessitates a child protection policy and procedures, and that a school or institution may need to share information and work in partnership with other agencies when there are concerns about a child's welfare. It may be helpful to include a reference to this in the establishment's prospectus or other information provided to parents and carers as well as pupils.

**3.37** Professionals should discuss any concerns about a child's welfare with the family and, where possible, seek their agreement to making referrals to social services. However, this should only be done where it will not place a child at increased risk. The child's views should also be considered in deciding whether to inform the family in some circumstances, particularly where the child is sufficiently mature to make informed judgements about the issues.

**3.38** Where there are any doubts or reservations about involving the child's family, the DSP should clarify with the statutory agencies, whether, and if so when and by whom, the parents or carers should be told about the referral. That may also be important in cases where the police may need to conduct a criminal investigation. Where appropriate, the DSP should help parents or carers understand that a referral is in the interests of the child and that the establishment will be involved in an enquiry under [section 47 of the Children Act 1989](#) or a police investigation.



## Information sharing

**3.39** Chapter 14 of [Safeguarding Children: Working Together Under the Children Act 2004](#) sets out non-statutory guidance on information sharing in respect of children and young people.

**3.40** [The Wales Accord on the Sharing of Personal Information](#) (WASPI) provides a framework for the exchange of personal information between different partner organisations in Wales. The [WASPI framework](#) is recognised as one of the key elements of the Welsh Government's [Sharing Personal Information programme](#) and in 2010 received endorsement by the Welsh Government as the single information sharing framework for Wales.

**3.41** Effective arrangements for safeguarding and promoting the welfare of children should include having in place agreed systems, standards and protocols for sharing information about a child and their family within each organisation and between organisations. These local protocols should be in accordance with this guidance.

**3.42** All those whose work brings them into contact with children should understand the purpose of sharing information to safeguard and promote children's welfare. They need to be confident about what they can and should do under the law, including how to obtain consent to share information, when information may be shared even though consent has not been obtained, or when seeking consent would place the child at risk of increased harm.

**3.43** Keeping children safe requires professionals and others to share information about a child's health, development and exposure to possible harm, about a parent who may need help to, or may not be able to, care for a child adequately and safely, and about those who may pose a risk of harm to a child. Often, it is only when information from a number of sources has been shared and is put together and evaluated that it becomes clear that a child is at risk of or is suffering harm, or that someone may pose a risk of harm to children.

**3.44** Those providing services to adults and children will be concerned about the need to balance their duties to protect children from harm and their general duty towards the service user. Some professionals and staff face the added dimension of being involved in caring for, or supporting, more than one family member, e.g. the abused child, siblings, an alleged abuser. Where there are concerns that a child is, or may be at risk of harm, however, the needs of that child must come first. In these circumstances, the overriding objective must be to safeguard and promote the child's welfare. In addition, there is a need for all organisations to hold information securely.

**3.45** To safeguard and promote children's welfare, the LSCB should ensure that its partner agencies have in place arrangements to ensure:

- all staff in contact with children understand what to do and the most effective ways of sharing information if they believe that a child and family may require additional services in order to achieve their optimal outcomes

- all staff in contact with children understand what to do and when to share information if they believe that a child may be a child in need, including those children suffering or at risk of suffering harm
- appropriate organisation-specific guidance is produced to complement guidance issued by the Welsh Government and such guidance and appropriate training is made available to existing and new staff as part of their induction
- guidance and training specifically covers the sharing of information between professions, organisations and agencies, as well as within them
- arrangements for training take into account the value of multi-agency training as well as single-agency training
- managers in children's services are conversant with the legal framework and good practice guidance issued for practitioners working with children.

## **Supervision and support**

**3.46** Working in child protection can entail making balanced professional judgements. All of those involved should have access to advice and support, from peers, managers, named and designated professionals and other support structures.

**3.47** For many practitioners, effective supervision is important to promoting good standards of practice and to supporting individual staff members. Supervision should help ensure that practice is soundly based and consistent with LSCB and organisational procedures. It should ensure that practitioners understand their roles, responsibilities and the scope of their professional discretion and authority. It should also help identify the training and development needs of practitioners, so that each has the skills to provide an effective service.

**3.48** Supervision should include scrutinising and evaluating the work carried out, assessing the strengths and weaknesses of the practitioner and providing coaching development and pastoral support. Supervisors should be available to practitioners as an important source of advice and expertise and may be required to endorse judgements at certain key points in child protection processes. Supervisors should also record key decisions within case records.



## **Chapter 4: Safeguarding responsibilities in specific circumstances**

### **Introduction**

**4.1** This chapter outlines additional considerations in relation to specific safeguarding issues. One or more sections might apply to an individual child's circumstances.

**4.2** A wealth of information and guidance already exists, which schools and education providers must follow to meet their safeguarding duties and responsibilities. This chapter provides links to statutory and good practice guidance on specific safeguarding issues, and where appropriate, summarises or expands upon key issues.

### **Abuse by children and young people, including sexual abuse (sexually harmful behaviour)**

#### **Duties and guidance**

**4.3** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) provides multi-agency guidance on abuse by children and young people. Chapter 4.9 of the [All Wales Child Protection Procedures](#) covers children who display sexually harmful behaviour.

### **Asylum seeking children**

#### **Duties and guidance**

**4.4** The Welsh Refugee Council, Displaced People in Action and Children in Wales have jointly developed a [Teachers Resource Pack for Working with Asylum Seeker and Refugee Children](#).

**4.5** Chapter 4.10 of the [All Wales Child Protection Procedures](#) covers unaccompanied asylum seeking children along with the All Wales Practice Guidance on [Safeguarding and Promoting the Welfare of Unaccompanied Asylum Seeking Children and Young People](#).

**4.6** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) provides multi-agency guidance on unaccompanied asylum seeking children and young people.

### **Black minority ethnic pupils**

#### **Duties and guidance**

**4.7** In 2011, the Welsh Government published guidance on [bullying around race, religion and culture](#).

**4.8** The [Equality Act 2010](#) consolidates existing law into a single legal framework. While many of the concepts of discrimination remain the same as in previous equality legislation, there are some areas that were not previously covered. There are various types of discrimination that apply to the [schools provisions in the Act](#). In 2012, BAWSO<sup>3</sup> published [Protecting Black and Minority Ethnic Children: An Investigation of Child Protection Interventions](#). This study looked at the number of children BAWSO had worked with who had been on the child protection register between 2006 and 2011, to explore the issue of safeguarding children from black and ethnic minority backgrounds.

## **Bullying**

### **Duties and guidance**

**4.9** Welsh Government guidance [Respecting Others: Anti-Bullying Guidance \(24/2003\)](#) provides information on tackling bullying in schools and the steps to be taken to support children and young people who report bullying outside school. It offers guidance on:

- bullying around race, religion and culture
- bullying involving children with special educational needs and disabilities
- homophobic bullying
- sexist, sexual and transphobic bullying
- cyberbullying – advances in communication technologies, and access to them by children and young people, has required schools to be vigilant and innovative in finding solutions to their misuse.

**4.10** [Tackling Hate Crimes and Incidents: A Framework for Action](#) was launched by the Welsh Government in May 2014. The Welsh Government has funded a children and young person's [helpline](#) through MEIC Cymru and a [National Hate Crimes and Incidents Centre](#) through Victim Support Cymru.

## **Child abuse images and the internet**

**4.11** Accessing abusive images of children is not a victimless action. Those who access inappropriate images of children are contributing to, and encouraging, continuing abuse of those children. Those children are victims of serious abuse and the abusers, whether the perpetrators of the initial abuse or those who access the images, should be subject to appropriate and proportionate criminal action.

**4.12** There is also growing concern about the exposure of children to inappropriate material via interactive communication technology, e.g. adult pornography and/or extreme forms of obscene material. Allowing or encouraging a child to view such material over an appreciable period of time may warrant further enquiry. Children themselves can engage in text bullying and use mobile camera phones to capture violent assaults of other children for circulation.

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<sup>3</sup> BAWSO is an all Wales, Welsh Government Accredited Support Provider, delivering specialist services to people from black and ethnic minority backgrounds who are affected by domestic abuse and other forms of abuse.

## Duties and guidance

**4.13** Chapter 5.5 of the [All Wales Child Protection Procedures](#) covers indecent images of children and the internet.

**4.14** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes a section on child abuse images, the internet and information technology.

**4.15** Further guidance, training and support is available from the [Child Exploitation and Online Protection Centre](#) (CEOP). CEOP works to protect children, families and society from paedophiles and sex offenders; in particular, those who seek to exploit children sexually online.

## Child abuse linked to belief in witchcraft or other spiritual beliefs

### Duties and guidance

**4.16** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) contains guidance on child abuse linked to belief in possession or witchcraft, or in other ways related to spiritual or religious belief. The Welsh Government also published separate guidance in May 2008 on [Safeguarding children from abuse linked to a belief in spirit possession](#).

## Child neglect

**4.17** Child neglect falls into four main categories: physical, educational, emotional and medical neglect. A prevalence study carried out by the NSPCC<sup>4</sup> in the UK shows that neglect was the most prevalent type of maltreatment in the family for all age groups and child neglect is the main reason why children in Wales were subject to a child protection plan.

**4.18** Possible consequences include an array of health and mental health problems including developmental delay, emotional and behavioural difficulties, lower IQ and poor school performance and difficulty with friendships and maintaining relationships.

**4.19** Physical neglect is the failure to provide for a child's basic physical needs. It usually involves the parent or caregiver not providing adequate quality and quantity of food, correct fit or type of clothing or a safe place to live, play and sleep. It can also include child abandonment and inadequate or inappropriate supervision, which leads to cuts, bruises, burns and other injuries.

**4.20** Educational neglect involves the failure to ensure a child receives an adequate and suitable education and failing to support a child in their learning.

**4.21** Emotional neglect or psychological neglect can include:

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<sup>4</sup> Radford, Lorraine, Corral, Susana, Bradley, Christine, Fisher, Helen, Bassett, Claire, Howat, Nick and Collishaw, Stephan (2011) [Child abuse and neglect in the UK today](#) . London: NSPCC.

- ignoring a child's presence or needs
- consistently failing to stimulate, encourage or protect a child
- rejecting a child and not showing affection in a timely or consistent manner
- isolating a child, where the child does not have normal social contact with other children and adults.

**4.22** Medical neglect is the failure to provide appropriate health care for a child. A parent may not recognise when a child requires medical attention, may refuse medical care for a child or may not start or administer the recommended treatment as directed by a healthcare professional. This also includes dental neglect, where a child may have severe untreated dental decay.

**4.23** Staff members concerned about child neglect should report their concerns to the Designated Senior Professional. They should apply basic safeguarding children principles including sharing information across agencies and being child-focused at all times. [Safeguarding Children: Working Together under the Children Act 2004](#) and the [All Wales Child Protection Procedures](#) both define child neglect and outline professionals' duties and responsibilities to act on concerns.

**4.24** Many LSBs have adopted child neglect protocols and will be able to offer advice (including links to published neglect toolkits and protocols) and work is ongoing to support boards to adopt these resources.

**4.25** Leaflets have been produced by NSPCC that summarise what is known about the key features to help identify neglect and emotional abuse in pre-school children, children aged 5-14 and teenagers. These can be downloaded from: <http://www.core-info.cardiff.ac.uk/category/leaflets>

## **Children and young people in the youth justice system**

### **Duties and guidance**

**4.26** In October 2014, the Youth Justice Board for England and Wales published [Commitment to Safeguard](#) in which it outlined its role and commitment to safeguarding children and young people in the youth justice system.

## **Children living away from home or in temporary accommodation**

### **Duties and guidance**

**4.27** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes guidance on children living away from home and children of families living in temporary accommodation.

**4.28** Chapter 4.2 of the [All Wales Child Protection Procedures](#) covers children living away from home.

## Child sexual exploitation (CSE)

### Duties and guidance

**4.29** The Welsh Government's statutory guidance on [Safeguarding Children and Young People from Sexual Exploitation](#) is designed to assist teachers and other professionals in preventing CSE by:

- developing local prevention strategies
- identifying those at risk of being sexually exploited
- enabling action to safeguard and promote the welfare of particular children and young people who are being, or may be, sexually exploited
- supporting action against those intent on abusing and exploiting children and young people in this way.

**4.30** The [All Wales Protocol](#) includes the Sexual Exploitation Risk Assessment Framework which enables safeguarding actions to be linked to evidence of risk, facilitating both preventive action and appropriate interventions. It is designed to inform suitable responses in relation to children and young people's safeguarding needs. School staff should be alert and competent to identify and act upon concerns that a child is vulnerable to, at risk of, or experiencing abuse through CSE.

## Children who may have been trafficked

### Duties and guidance

**4.31** The [All Wales Practice Guidance for Safeguarding Children Who May Have Been Trafficked](#) sets out the required response to effectively safeguard children who are abused and neglected by adults who traffic them into and within the UK for purposes of exploitation.

**4.32** The [Sexual Offences Act 2003](#) introduced new wide-ranging offences covering trafficking into, out of or within the UK, for any form of sexual offence. These offences carry a 14 year maximum penalty.

**4.33** The [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004](#) introduced a new offence of 'trafficking for exploitation' which covers trafficking for forced labour and the removal of organs.

**4.34** The UK has international obligations in relation to trafficking under the UN Palermo Protocol, the [EU Framework Decision on Trafficking for the Purposes of Sexual and Labour Exploitation](#), and the Council of Europe [Convention on Action against Trafficking in Human Beings](#).

**4.35** In 2008, the Welsh Government published [Safeguarding Children who may have been trafficked](#). This provides good practice guidance to professionals and volunteers from all agencies to help them effectively safeguard children who are abused and neglected by adults who traffic them into and within the UK in order to exploit them.

**4.36** In 2011 the Home Office published its [Strategy on Human Trafficking](#). This places emphasis on raising awareness of child trafficking and ensuring child victims are safeguarded and protected from re-trafficking.

**4.37** The NSPCC's Child Trafficking Advice Centre (CTAC) is a specialist national service that provides free advice and support to professionals concerned that a child or young person may be a victim of trafficking. Call CTAC for advice, information and support on 0808 800 5000 or email [help@nspcc.org.uk](mailto:help@nspcc.org.uk).

## **Children missing education**

### **Duties and guidance**

**4.38** The Welsh Government has published [statutory guidance to help prevent children and young people from missing education](#). It provides a practical toolkit to identify children and young people missing education.

## **Children who run away/missing children**

**4.39** The [All Wales Child Protection Procedures](#) includes a protocol on children who go missing <http://www.awcpp.org.uk/home/wales-protocols/>. The protocol applies to all children and young people up to the age of 18 and covers:

- children who go missing who are living within their families
- children who are looked after by the local authority who go missing from their placement (including children on remand).

## **Disabled children**

### **Duties and guidance**

**4.40** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes guidance on abuse of disabled children.

**4.41** Chapter 4.7 of the [All Wales Child Protection Procedures](#) covers abuse of disabled children. Where there are concerns about the welfare of a disabled child, they should be acted upon in accordance with the [All Wales Child Protection Procedures](#), in the same way as with any other child. The same thresholds for action apply. It would be unacceptable if poor standards of care were tolerated for disabled children which would not be tolerated for non-disabled children. Where a disabled child has communication or learning difficulties, special attention should be paid to communication needs, ascertaining the child's perception of events, and his or her wishes and feelings.

**4.42** The [Equality Act 2010](#) covers discrimination law, further strengthening the law to support progress on equality. The Act protects pupils from discrimination, harassment and victimisation based on 'protected characteristics'. Disability is a protected characteristic.

**4.43** [Part 6 of the Equality Act](#) sets out the duties of schools and local authorities under the Equality Act 2010.

## **e-Safety**

**4.44** The Welsh Government encourages schools to make full use of social technologies to engage learners and improve learning outcomes, while also developing learners to be confident and competent digital citizens. In March 2013, the Minister for Education and Skills published a [written statement on the safe and responsible use of social networking sites in education](#) and asked local authorities to work with the Welsh Government on a new and more positive approach. This recognised that for children to develop the skills and knowledge to become confident digital citizens, they need to understand how to use the internet safely, both under supervision and independently.

**4.45** To help children and young people stay safe online, a [new e-safety zone](#) has been created on [Hwb](#) – the national digital content repository. This provides resources, news and research on staying safe in the digital space by adopting appropriate behaviours and a positive digital presence. It hosts e-safety resources for all schools to help teachers raise awareness of e-safety issues with parents and pupils.

**4.46** In October 2014, [360 degree safe Cymru, an e-safety self review tool](#) was launched. This allows schools to review their e-safety policies and practices. It provides template policies, in addition to links to good practice guidance, and allows schools to identify areas of strength and weakness and benchmark their progress and improvement against other schools.

**4.47** In October 2014, the [Digital Literacy and Citizenship Resource](#) was launched. This resource is designed to be used in classrooms to empower pupils to think critically, behave safely, and participate responsibly in our digital world. These free [materials](#), covering foundation phase up to key stage 4/5, are flexible and adaptable. This allows teachers to choose from units from other year groups, for example, in response to events in school, or to recognised national changes in online trends.

## **Fabricated or induced illness (FII)**

### **Duties and guidance**

**4.48** Chapter 5.3 of the [All Wales Child Protection Procedures](#) contains a fabricated illness protocol.

**4.49** In 2008 the Welsh Government published [Safeguarding Children in Whom Illness is Fabricated or Induced](#).

## **Female genital mutilation (FGM)**

### **Duties and guidance**

**4.50** [The All Wales Child Protocol on Female Genital Mutilation](#) provides advice on



safeguarding girls from FGM.

**4.51** The Home Office has also produced [multi-agency guidelines](#) which outline the actions that should be taken by front-line professionals, such as teachers, health professionals, police officers and social workers, to protect girls and women and offer them the support they need.

**4.52** In the UK, all forms of FGM<sup>5</sup> are illegal under the [Female Genital Mutilation Act 2003](#). It is an offence (regardless of their nationality and residence status) to:

- perform FGM in the UK
- assist the carrying out of FGM in the UK
- assist a girl to carry out FGM on herself in the UK
- assist from the UK, a non-UK person to carry out FGM outside the UK on a UK national or permanent UK resident.

**4.53** The Act also makes it an offence, for the first time, for UK nationals or permanent UK residents to:

- perform FGM abroad
- assist FGM carried out abroad by a UK national or permanent UK resident – this includes taking a girl abroad to be subjected to FGM
- assist from outside the UK for FGM to be carried out abroad by a non-UK person on a girl or woman who is a UK national or permanent UK resident – this includes taking a girl abroad to be subjected to FGM
- assist a girl to perform FGM on herself outside the UK, even in countries where the practice is legal.

**4.54** Any information or concern that a child is at immediate risk of, or has undergone, FGM should result in an immediate child protection referral.

**4.55** If you have concerns that a girl or young woman may be taken overseas for FGM then you should also contact the [Foreign and Commonwealth Office](#). [FORWARD](#) is a UK organisation which provides support, counselling and safe space for girls and women to talk about their experiences. They can also educate and work with families to prevent FGM happening to any other girls in the family.

**4.56** The NSPCC has a 24-hour helpline for anyone who is worried a child is at risk of, or has had FGM. You can call 0800 028 3550 or you can email [fgmhelp@nspcc.org.uk](mailto:fgmhelp@nspcc.org.uk).

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<sup>5</sup> <http://www.equalitynow.org/sites/default/files/FGM%20EN%20City%20Estimates.pdf>

## Forced marriage and honour-based violence

### Duties and guidance

**4.57** HM Government's [Multi-agency practice guidelines: Handling cases of Forced Marriage](#), updated in August 2014, provides step-by-step advice to professionals, including teachers.

**4.58** It complements the statutory guidance [The Right to Choose](#) which came into force with the launch of the [Forced Marriage \(Civil Protection\) Act](#) in November 2008 and sets the broader strategic responsibilities of chief executives and senior managers in tackling forced marriage locally.

**4.59** [The Anti-social Behaviour, Crime and Policing Act 2014](#) makes it a criminal offence to force someone to marry. This includes:

- taking someone overseas to force them to marry (whether or not the forced marriage takes place)
- marrying someone who lacks the mental capacity to consent to the marriage (whether they're pressured to or not)
- breaching a Forced Marriage Protection Order
- the civil remedy of obtaining a Forced Marriage Protection Order through the family courts will continue to exist alongside the new criminal offence, so victims can choose how they wish to be assisted. Details of the new law can be found on the [Legislation website](#).

**4.60** [Forced Marriage and Learning Disabilities: Multi-Agency Practice Guidelines](#) helps professionals dealing with the forced marriage of people with learning disabilities. It is designed to help raise awareness and support practitioners in identifying the warning signs of this complex and often hidden practice.

**4.61** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes guidance on forced marriage.

**4.62** If there are concerns that a child (male or female) is in danger of a forced marriage, schools and FE institutions can contact the UK Government's [Forced Marriage Unit](#), where experienced caseworkers are able to offer support and guidance. Call 020 7008 0151 between 9am-5pm Monday to Friday or email [fm@fco.gov.uk](mailto:fm@fco.gov.uk)

## Foster care, including private fostering

### Duties and guidance

**4.63** The [Children Act 2004](#) establishes the duty of all local authorities to promote awareness of the need to notify them about any privately fostered children living in their area.

**4.64** In 2011 the Welsh Government published [Protecting Children, Supporting Foster Carers: A Toolkit for Dealing with an Allegation of Abuse](#) to assist fostering

services in the public and independent sectors, and child protection managers in dealing with allegations against foster carers.

**4.65** Teachers and other professionals should notify the local authority of any private fostering arrangement that comes to their attention where they are not satisfied that the local authority has been, or would be, notified of the arrangement. It is good practice to inform the foster parents of the referral but if it is considered that this could place the child at risk of harm then it is not necessary to obtain consent.

**4.66** [The Children Act 1989](#) creates a number of offences in connection with private fostering, including failure to notify an arrangement or to comply with any requirement or prohibition imposed by the authority. The [Children Act 2004](#) strengthens local arrangements for notification. Paragraph 7A of [Schedule 8 to the Children Act 1989](#), requires local authorities to promote awareness in their area of notification requirements, and to ensure that such advice as appears to be needed is given to those concerned with children who are, or are proposed to be, privately fostered. This will include parents and private foster carers.

## **Foreign exchange visits**

### **Duties and guidance**

**4.67** Local authorities and schools have a duty to ensure that appropriate arrangements are in place to safeguard and promote the welfare of children, under [Section 175 of the Education Act 2002](#) and [Section 28 of the Children Act 2004](#). It is important that schools and local authorities are clear about how they continue to meet their statutory duties for safeguarding children when making arrangements for foreign exchange visits.

### **Foreign exchanges organised by schools**

**4.68** It is a matter for local authorities and schools to satisfy themselves when considering making arrangements to allow a host family in Wales to have contact with a visiting child, that the members of the host family are not included on a barred list. Advice should be sought from the Disclosure and Barring Service (DBS).

**4.69** The DBS cannot access criminal records held overseas. Foreign host families cannot be checked in the same way by local authorities and schools in Wales when pupils stay abroad. Schools should work with partner schools abroad to ensure that similar assurances are undertaken prior to a visit. If they wish, local authorities and schools can contact the relevant [foreign embassy](#) or High Commission of the country in question and find out if similar checks can be done in that country.

### **Foreign exchanges organised by parents and carers**

**4.70** Where parents organise a foreign exchange, or exercise their own judgment and accept the responsibility for selecting the host family, it is considered to be a private arrangement between the two families and therefore falls within the scope of a 'family and personal arrangement'. Therefore, DBS checks are not required. In such cases it is likely that a relationship has been established between the two families

over time, so that the parents can make an informed choice about sending their child to stay with the host family.

## **Gender-based violence, domestic abuse and sexual violence**

**4.71** The Welsh Government has adopted the following definitions in the [Gender-based Violence, Domestic Abuse and Sexual Violence \(Wales\) Bill](#).

- **Domestic abuse** is physical, sexual, psychological, emotional or financial abuse where the victim is associated with the abuser.
- **Gender-based violence** is violence, threats of violence or harassment arising directly or indirectly from values, beliefs or customs relating to gender or sexual orientation, female genital mutilation and forced marriage.
- **Sexual violence** includes sexual exploitation, sexual harassment, or threats of violence of a sexual nature.

**4.72** Women and men can be victims of domestic abuse within heterosexual, lesbian, gay, bisexual and transgender relationships. They can also suffer abuse from other family members. However, the majority of domestic abuse is perpetrated by men against women and their children. Young women aged 16 to 24 years are most at risk of being victims of domestic abuse.

### **Duties and guidance**

**4.73** The [Service Framework to meet the needs of people with Domestic Abuse and Substance Misuse Problems](#) is designed to assist domestic abuse and substance misuse care planners, commissioners and providers, to establish robust links between domestic abuse and substance misuse services which will provide a seamless care pathway for all clients.

**4.74** The [All Wales Child Protection Procedures](#) includes the [All Wales Practice Guidance on Safeguarding Children and Young People Affected by Domestic Abuse](#) to support practitioners in responding to concerns.

**4.75** The Gender-based Violence, Domestic Abuse and Sexual Violence (Wales) Bill is a key priority for the Welsh Government. Alongside a package of additional policy measures, it will build on the progress made under the 'Right to be Safe' Strategy (2010), for tackling all forms of violence against women and domestic abuse, which includes advice on 'enhancing our response in schools.' The draft legislation focuses on three specific areas: improving leadership and accountability, improving education and awareness, and strengthening services in Wales. Statutory guidance to support the legislation will be published when the legislation becomes law and the Welsh Government will consider how this guidance might impact on safeguarding arrangements in education.

### **Link between domestic abuse and child abuse**

**4.76** There is a strong link between domestic abuse and the abuse and neglect of children. One in three child protection cases shows a history of domestic violence to the mother. Young people in violent households are three to nine times more likely to

be injured and abused, either directly or while trying to protect their parent. One in five child abuse cases dealt with by the NSPCC involves domestic abuse. In ninety percent of those cases, young people are present in the home and are affected while abuse is going on; and in about half the cases, there is abuse to the young person too.

## **Responding to concerns**

**4.77** Where school staff have cause to believe that a young person is at risk from, is the subject of, or is living in a household with violence or abuse, the DSP should be informed immediately and action taken in accordance with the [All Wales Child Protection Procedures](#).

**4.78** When the abuse is between adults in the household, the young person can be provided with advice on who can help, including local police, local domestic abuse advocacy services (please refer to locally produced information), the All Wales Helpline (0808 8010 800) or children's social service departments.

**4.79** The National Training Framework for Wales on gender-based violence, domestic abuse and sexual violence will set out the level of training appropriate for education-based staff. All relevant professionals must be able to 'Ask and Act' in relation to gender-based violence, domestic abuse and sexual violence. In practice, this means that all professionals likely to come into contact with those who may be experiencing abuse can identify the indicators of this experience and respond appropriately to that person.

## **Proactive approaches**

**4.80** Prevention work should be integrated, where practical, into all aspects of school life and addressed at all appropriate points in the curriculum, for example in English, Welsh, Religious Education and [Personal and Social Education \(PSE\)](#). High quality PSE helps to create a positive school ethos where pupils have a safe environment in which to learn and have the opportunity and confidence to share concerns with others. Discussing the issues and listening to the views and opinions of peers can help change attitudes and provide support. When discussing sensitive issues within PSE or any school context, these need to be presented in a balanced way and ethical issues discussed objectively. However, it is equally important to equip learners to take responsibility for their behaviour in their personal relationships and how to recognise inappropriate behaviour.

## **Physical contact with pupils, including restraint**

### **Duties and guidance**

**4.81** [Under section 93 of the Education and Inspections Act 2006](#) all school staff are able to use such force as is reasonable in the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

- committing any offence (or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil)

- causing personal injury to, or damage to the property of, any person (including the pupil himself)
- prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

**4.82** There is no legal definition of when it is reasonable to use force. That will always depend on the precise circumstances of individual cases. To be judged lawful, the force used would need to be in proportion to the consequences it is intended to prevent. The degree of force used should be the minimum needed to achieve the desired result. Use of force could not be justified to prevent trivial misbehaviour.

**4.83** It is always unlawful to use force as a punishment. This is because it would fall within the definition of corporal punishment, abolished by Section 548 of the Education Act 1996.

**4.84** In 2005 the Welsh Government issued the [Framework for Restrictive Physical Intervention Policy and Practice](#) to provide advice to all statutory agencies to enable a common framework of principles and expectations. In 2014 specific guidance to education services on [Safe and effective intervention: The use of reasonable force](#) and searching for weapons was issued.

**4.85** A school's policy on use of force should be consistent with, but not necessarily part of, its behaviour policy. The Welsh Government guidance on the promotion of positive behaviour and school behaviour policies can be found in the [Inclusion and Pupil Support Circular 47/2006](#). It should also be consistent with the school's policies on child protection and health and safety.

## Radicalisation

### Duties and guidance

**4.86** In 2011, Welsh Government published guidance [Respect and resilience: Developing community cohesion – a common understanding for schools and their communities](#) which sets out the role that schools have in developing and supporting strategic approaches to promoting and maintaining community cohesion and eradicating violent extremism.

**4.87** In 2012 the UK Government launched a refocused [Prevent](#) strategy. This strategy contained objectives to:

- respond to the ideological challenge of terrorism and the threat from those who promote it
- prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support
- work with sectors and institutions where there are risks of radicalisation that we need to address.

**4.88** [Channel](#), a key element of the [Prevent](#) strategy, is a multi-agency approach to protect people at risk from radicalisation. Channel is about safeguarding children and



adults from being drawn into committing terrorist-related activity. Channel uses existing collaboration between statutory safeguarding partners (such as local authorities, the police, the NHS and youth and offender management services) to:

- identify individuals at risk of being drawn into terrorism
- assess the nature and extent of that risk
- develop the most appropriate support plan for the individuals concerned.

**4.89** For more information about the Home Office’s radicalisation awareness training product Workshop to Raise Awareness of Prevent (WRAP) email [WRAP@homeoffice.x.gsi.gov.uk](mailto:WRAP@homeoffice.x.gsi.gov.uk).

**4.90** If you have a concern about a child in respect of extremism and the support options are not available locally, talk to your LSCB police representative who will be able to discuss support options.

**4.91** To report suspected online terrorism content please follow this [link](#).

**4.92** You can also refer content of concern directly to social media platform – find out how on <http://www.saferinternet.org.uk/advice-and-resources/teachers-and-professionals/safety-features>

## **Sexually active young people**

**4.93** The [Sexual Offences Act 2003](#) sets the legal age for sexual activity at 16. It further states that children under the age of 13 are of insufficient age to give consent to sexual activity. In law, sexual activity with a child under the age of 13 years is a serious offence and reflects society’s view that children of less than 13 years of age should not be sexually active and that their level of vulnerability to exploitation and sexual grooming is potentially significant.

**4.94** All young people, regardless of gender, or sexual orientation who are believed to be engaged in, or planning to be engaged in, sexual activity must have their needs in respect of their health, education, support and/or protection assessed by the agency involved. This assessment must be carried out in accordance with the [All Wales Child Protection Procedures](#). Professionals working with young people should be fully aware of the 5 points of the Fraser guidance in respect of the young person’s capacity:

- the young person will understand the professional's advice
- the young person cannot be persuaded to inform their parents
- the young person is likely to begin, or to continue having, sexual intercourse without contraceptive treatment
- unless the young person receives contraceptive treatment, their physical or mental health, or both, are likely to suffer
- the young person's best interests require them to receive contraceptive advice or treatment with or without parental consent.



## **Duties and guidance**

**4.95** The [All Wales Child Protection Procedures](#) includes a protocol on safeguarding and promoting the welfare of sexually active young people (chapter 5.4), and is designed to identify where these relationships may be abusive and where children and young people may need to be safeguarded.

### **Children under the age of 13**

**4.96** Under [the Sexual Offences Act 2003](#) children under the age of 13 are of insufficient age to give consent to sexual activity. In all cases where the sexually active young person is under the age of 13, a full assessment must be undertaken by the agency involved. Each case must be assessed individually and consideration must be given to making a child protection referral to social services.

**4.97** A decision not to refer to social services can only be made following discussion of the case with the child protection lead within the professional's employing agency. When a referral is not made, the professional and agency concerned is fully accountable for the decision and the reasons for the decision must be clearly recorded.

**4.98** When a girl under the age of 13 is found to be pregnant, a referral must be made to social services where an initial assessment will be completed and a strategy meeting or /discussion will take place, which will include representatives from health and education.

**4.99** [Safeguarding Children: Working Together Under the Children Act 2004](#) (chapter 8, paragraph 8.29) states that where agencies have concerns that a criminal offence might have taken place then the case should be referred to the police without delay.

### **Young people aged between 13 and 16**

**4.100** The [Sexual Offences Act 2003](#) reinforces that, while mutually agreed, non-exploitative sexual activity between teenagers does take place and that often no harm comes from it, the age of consent should still remain at 16. This acknowledges that this group of young people is still vulnerable, even when they do not view themselves as such.

**4.101** Sexually active young people in this age group will still need to have their needs assessed using the All Wales protocol. Discussion with social services will depend on the level of risk or need assessed by those working with the young person. Consideration should be given to making a referral if the young person becomes pregnant or has a miscarriage or planned termination.

**4.102** This difference in procedure reflects the position that, while sexual activity under 16 remains illegal, young people under the age of 13 are not capable of giving consent to sexual activity.

## Young people aged between 17 and 18

**4.103** Although sexual activity in itself is no longer an offence over the age of 16, young people under the age of 18 are still offered the protection of child protection procedures under the [Children Act 1989](#). Consideration needs to be given to issues of sexual exploitation through prostitution and abuse of power in circumstances. Young people can still be subject to offences of rape and assault and the circumstances of an incident may need to be explored with a young person.

**4.104** For young people over the age of 16 and under the age of 18, there will be an imbalance of power and the child or young person will not be deemed able to give consent if the sexual partner is in a position of professional trust or is a family member as defined by [the Sexual Offences Act 2003](#).

## Substance misuse

**4.105** The Advisory Council on the Misuse of Drugs' (ACMD) report [Hidden Harm – Responding to the needs of children of problem drug users](#) estimated that there could be as many as 17,500 children and young people in Wales living in families affected by parental drug misuse, and that 64,000 Welsh children may be adversely affected by parental alcohol problems.

## Duties and guidance

**4.106** Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes a section on safeguarding the children of substance misusing parents.

**4.107** The Welsh Government's [Substance Misuse Delivery Plan 2013 - 2014](#) supports its 10-year strategy [Working Together to Reduce Harm: The Substance Misuse Strategy for Wales 2008-2018](#) and sets out the actions to be taken to reduce the harm caused by substance misuse.

**4.108** [Guidance for Substance Misuse Education](#) was published in July 2013. The [guidance](#) provides detailed information relating to the delivery of appropriate substance misuse education according to curriculum requirements and specific need, and substance misuse incident management including support, legislation and good practice.

**4.109** [Working Together to Reduce Harm: The Substance Misuse Strategy for Wales 2008-2018](#) places particular emphasis on prevention work with children and young people in relation both to alcohol and other substances. The Welsh Government aims to reach a position where no-one in Wales is ignorant either of the consequences of misusing drugs or alcohol, or where they can seek help and support.

**4.110** School-based counselling services also provide personal support for children and young people who wish to discuss their problems, including substance misuse, with an independent adviser. The Welsh Government's [National Strategy on School-based Counselling Services in Wales](#) highlights the need for counselling services to develop protocols for working with other agencies, including referrals to substance misuse agencies.

**4.111** The Welsh Substance Misuse Helpline, [DAN 24/7](#), provides easy access 24 hours a day to information and advice, including where to access further support or treatment.

## **Suicide**

### **Duties and guidance**

**4.112** [Talk to Me: the national action plan to reduce suicide and self harm in Wales](#) was published in 2009. The action plan is aimed mainly at people who are at highest risk. The plan has seven key commitments and these are to:

- promote mental health and wellbeing
- deliver early intervention
- respond to personal crisis
- manage the consequences of suicide and self harm
- promote learning and research and improve information on suicide and suicide prevention
- work with the media to ensure appropriate reporting on mental health and suicide
- restrict access to the means of suicide.

**4.113** The [Help is at Hand](#) self-help guide is for the benefit of those bereaved by suicide and was published in 2013. It is aimed at a wide range of people who are affected by suicide or unexplained death, not just relatives or friends, but also healthcare and other professionals who come into contact with bereaved people, to assist them in providing help and to suggest how they themselves may find support if they need it.

## **Teenage intimate partner abuse**

**4.114** There is emerging evidence that abuse within young people's relationships at least mirrors the levels of prevalence seen in adult relationships and the data which outlines significant levels of high risk abuse.

**4.115** Recent work by Co-ordinated Action Against Domestic Abuse (CAADA) found most teenage victims in the study were experiencing abuse perpetrated by a current or ex-intimate partner and were not living with the perpetrator. Teenage victims were more likely than adult victims to be abused by more than one perpetrator.

**4.116** Young person relationship abuse affects both genders, although more girls reported that the abuse was repeated and that severity worsened after the relationship had ended. Girls also reported a greater negative impact on their welfare than boys. Although research findings show that girls experience this type of abuse more frequently than boys, they experience the impact differently. Girls report a much more significant negative impact whereas boys tend to minimise the impact of violence. Boys also tend to minimise their own use of violence and may refer to it as 'messing around' (NSPCC 2009).

**4.117** Boys are also affected by gender stereotypes and may feel under pressure to behave in an overtly masculine or 'macho' way towards girls and women. Gender equality education can help to address the media portrayal of both genders and help to engage both boys and girls to identify healthy and unhealthy relationships.

**4.118** Abuse may take the form of physical, sexual, emotional and overtly controlling behaviour, which might involve stopping the young person from seeing their friends or going out, telling them what they can and cannot say, threatening them or isolating them from friends and family.

### **Risk indicators**

**4.119** Education professionals may not directly witness any of these behaviours, but may see signs that a young person is in an abusive relationship.

**4.120** Experiencing relationship abuse can have a detrimental effect on the young person's educational participation and achievement. They may start missing lessons or not completing homework, and the quality of their work may suffer. If a young person doesn't feel safe they may avoid coming to school altogether or stay late rather than having to meet their girlfriend/boyfriend outside school.

### **Responding to concerns**

**4.121** Concerns should be reported in the same way as all other safeguarding issues. The NSPCC and the Association of Teachers and Lecturers have written a checklist for developing relationship abuse policies within schools. It is available at: [www.nspcc.org.uk/relationshipabuse](http://www.nspcc.org.uk/relationshipabuse).

**4.122** Abuse in young people's relationships tends to escalate more quickly than adult relationships and is likely to be as or more severe in its nature. Whilst schools and colleges can provide safe havens for young people at risk, it is also possible that a victim and the person who is abusing them will attend the same school or college and/or be part of the same social circle.

### **Proactive approaches**

**4.123** Teaching what constitutes a healthy relationship, through sex and relationship education, is central to safeguarding. Implicit within this is challenging stereotypes, such as female passivity and male aggression, and recognising that relationship abuse can happen to anyone, no matter what their gender, social background or sexual orientation.

**4.124** As part of the safeguarding response to relationship abuse, schools should identify strategies to support pupils who demonstrate abusive behaviour to change their behaviour. These strategies could include involvement of parents, if appropriate, referral to counselling and other forms of support, or locating a specific programme for young people who are abusive in their relationships.

# Chapter 5: Safer recruitment practice

## Introduction

**5.1** Ensuring that safeguarding and promoting the welfare of children is an integral factor in human resources (HR) management is central to creating safe environments for children and young people. It is vital that schools, Further Education (FE) colleges and other education establishments adopt recruitment and selection procedures, and other HR management processes that help to prevent, identify and reject people who might abuse children, or are otherwise unsuited to work with them.

**5.2** Safer practice in recruitment means thinking about and including issues related to child protection, and safeguarding and promoting the welfare of children, at every stage of the process. It starts with the process of planning the recruitment exercise and, where the post is advertised, ensuring that the advertisement makes clear the organisation's commitment to safeguarding and promoting the welfare of children.

**5.3** It also requires a consistent and thorough process of scrutinising applicants, verifying identity and academic or vocational qualifications, obtaining professional and character references, checking previous employment history and ascertaining that a candidate has the health and physical capacity for the job. It also requires a face-to-face interview, as well as, where appropriate, a criminal record check or barred list check from the Disclosure and Barring Service (DBS).

**5.4** This chapter provides advice about practice that should be followed to achieve safer recruitment practice. It aims to assist all schools – including pupil referral units, non-maintained and independent schools, FE colleges and local authorities exercising education functions – to review and, where appropriate, modify their practice and procedures in ways that will strengthen safeguards for children and young people by helping to deter and prevent abuse.

**5.5** The measures described in this chapter should be applied in relation to everyone who works in an education setting where there are children under 18, who is likely to be perceived by the children as a safe and trustworthy adult. Those are not only people who, as a result of their work, regularly come into contact with children or who will be responsible for them. They are also people who regularly work in a setting, such as a school, when the pupils are present, who may not have direct contact with children as a result of their job, but nevertheless will be seen as safe and trustworthy because of their regular presence in the setting. This includes workers not on the payroll, such as staff employed by contractors, and unpaid volunteers.

**5.6** This chapter is not a comprehensive guide to recruitment and selection or employment issues, and does not cover all the issues relevant to that subject. It is not a substitute for training in those areas, or in interviewing and assessment techniques. Head teachers, principals and others who recruit and select staff and volunteers, and manage services and establishments, will need appropriate training as well as support and advice from their personnel or HR adviser to ensure their practice satisfies the requirements of employment law. This chapter provides procedural guidance to supplement this training.

## The recruitment process

**5.7** The key elements of the recruitment process are:

- ensuring the job description makes reference to the responsibility for safeguarding and promoting the welfare of children
- ensuring that the person specification includes specific reference to suitability to work with children
- obtaining and scrutinising all information from applicants, and questioning and satisfactorily resolving any discrepancies or anomalies
- obtaining independent professional and character references that answer specific questions to help assess an applicant's suitability to work with children, and following up any concerns
- a face-to-face interview that explores the candidate's suitability to work with children as well as his or her suitability for the post
- verifying the successful applicant's identity
- verifying that the successful applicant has obtained any academic or vocational qualifications stated
- checking his or her previous employment history and experience
- verifying that he or she has the health and physical capacity for the job
- when appropriate, where a person will be engaging in regulated activity, obtaining a certificate for an enhanced DBS check with barred list information
- obtaining a separate barred list check if an individual will start work in regulated activity before the DBS certificate is available.
- checking or verifying that the person is registered with GTCW.

## Recruitment and selection policy statement

**5.8** The employer should have an explicit written recruitment and selection policy statement and procedures, that both comply with national and local guidance. The statement should detail all aspects of the process and should link to their child protection policy and procedures.

**5.9** The policy statement should incorporate a clear declaration about the organisation's commitment to safeguarding and promoting the welfare of children. An appropriate statement should be included in any model recruitment and selection policy that a local authority or HR adviser provides to establishments. For example:

*"This authority/school/college is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment."*

**5.10** The statement should be included in:

- publicity materials
- recruitment websites
- advertisements
- candidate information packs

- person specifications
- job descriptions
- competency frameworks
- induction training.

## Planning and advertising

**5.11** Planning is vital to successful recruitment. It is important to be clear about what combination of qualities, qualifications and experience a successful candidate will need to demonstrate, and whether there are any particular matters that need to be mentioned in the advertisement for the post in order to prevent unwanted applications. It is essential to plan the recruitment exercise itself, identifying who should be involved, assigning responsibilities and setting aside sufficient time for the work needed at each stage, so that safeguards are appropriately addressed. For example, it is important to organise the selection process to allow references to be obtained on shortlisted candidates before interview.

**5.12** The person specification will need careful thought and drafting. The time and effort spent in this stage of the process should help minimise the risk of making an unsuitable appointment. It is also good practice to make sure that all the other material that will form part of the candidate information pack is up-to-date and outlines clearly the extent of the relationships, contact and responsibility the successful candidate will have with children. All work in a school or FE college involves some degree of responsibility for safeguarding children, although the extent of that responsibility will vary according to the nature of the post.

**5.13** When a vacancy is advertised, the advertisement should include a statement about the employer's commitment to safeguarding and promoting the welfare of children, and reference to the need for the successful applicant to undertake an enhanced DBS check, where appropriate, as well as details of the post and salary, qualifications required and other usual information.

## Application form

**5.14** Employers should use an application form to obtain a common set of core data from all applicants. It is not good practice to accept curriculum vitae drawn up by applicants in place of an application form because these will only contain the information the applicant wishes to present and may omit relevant details.

**5.15** For applicants for all types of post, the form should obtain:

- full identifying details of the applicant including current and former names, date of birth<sup>6</sup>, current address, and National Insurance number
- a statement of any academic and/or vocational qualifications the applicant has obtained that are relevant to the position for which s/he is applying with details of the awarding body and date of award
- a full history in chronological order since leaving secondary education,

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<sup>6</sup> To ask for date of birth is not discriminatory. This information is required to ensure correct identification of the candidate.



including periods of any post-secondary education or training, and part-time and voluntary work as well as full-time employment, with start and end dates, explanations for periods not in employment, education or training, and reasons for leaving employment

- a declaration of any family or close relationship to existing employees or employers (including councillors and governors)
- details of referees. One referee should be the applicant's current or most recent employer, and normally two referees should be sufficient. Where an applicant who is not currently working with children has done so in the past it is important that a reference is also obtained from the employer by whom the person was most recently employed in work with children. The form should make it clear that references will not be accepted from relatives or from people writing solely in the capacity of friends
- a statement of the personal qualities and experience that the applicant believes are relevant to his or her suitability for the post advertised and how s/he meets the person specification.

**5.16** The application form should include an explanation that the post is exempt from the [Rehabilitation of Offenders Act 1974](#) and therefore that all convictions, cautions and bind-overs, including those regarded as 'spent', must be declared. And it should require a signed statement that the person is not on a barred list, disqualified from work with children, or subject to sanctions imposed by a regulatory body, e.g. the General Teaching Council for Wales (GTCW), and either has no convictions, cautions, or bind-overs, or has attached details of their record in a sealed envelope marked confidential.

**5.17** It should record that:

- where appropriate the successful applicant will be required to provide a DBS check at the appropriate level for the post
- the prospective employer will seek references on short-listed candidates, and may approach previous employers for information to verify particular experience or qualifications, before interview
- if the applicant is currently working with children, on either a paid or voluntary basis, his or her current employer will be asked about disciplinary offences relating to children, including any for which the penalty is time expired (that is where a warning could no longer be taken into account in any new disciplinary hearing for example) and whether the applicant has been the subject of any child protection concerns, and if so, the outcome of any enquiry or disciplinary procedure. If the applicant is not currently working with children but has done so in the past, that previous employer will be asked about those issues
- providing false information is an offence and could result in the application being rejected, or summary dismissal if the applicant has been selected, as well as possible referral to the police.

**5.18** Applicants for teaching posts should also be asked:

- whether s/he has Qualified Teacher status (QTS)
- whether s/he is registered with the GTCW.

**5.19** Applicants for teaching posts in FE colleges should be asked whether they have a teaching qualification, and for the details of this.

## **Job description**

**5.20** This should clearly state:

- the main duties and responsibilities of the post and
- the individual's responsibility for promoting and safeguarding the welfare of children and young persons s/he is responsible for, or comes into contact with.

## **Person specification**

**5.21** This should:

- include the qualifications and experience, and any other requirements needed to perform the role in relation to working with children and young people
- describe the competences and qualities that the successful candidate should be able to demonstrate
- explain that if the applicant is shortlisted any relevant issues arising from his or her references will be taken up at interview
- explain how these requirements will be tested and assessed during the selection process.

For example:

*“In addition to candidates’ ability to perform the duties of the post, the interview will also explore issues relating to safeguarding and promoting the welfare of children including:*

- a. motivation to work with children and young people*
- b. ability to form and maintain appropriate relationships and personal boundaries with children and young people*
- c. emotional resilience in working with challenging behaviours and*
- d. attitudes to use of authority and maintaining discipline.”*

## **Candidate information pack**

The pack should include a copy of:

- the application form, and explanatory notes about completing the form
- the job description and person specification
- any relevant information about the local authority or establishment and the recruitment process, and statements of relevant policies such as the

authority or establishment's policy about equal opportunities, the recruitment of ex-offenders, etc.

- the establishment's child protection policy statement and
- a statement of the terms and conditions relating to the post.

## **Scrutinising and shortlisting**

**5.22** All applications should be scrutinised to ensure that they are fully and properly completed, that the information provided is consistent and does not contain any discrepancies, and to identify any gaps in employment. Incomplete applications should not be accepted and should be returned for completion. Any anomalies or discrepancies or gaps in employment identified by the scrutiny should be noted so that they can be taken up as part of the consideration of whether to short-list the applicant. As well as reasons for obvious gaps in employment, the reasons for a history of repeated changes of employment without any clear career or salary progression, or a mid-career move from a permanent post to supply teaching or temporary work, also need to be explored and verified. All candidates should be assessed equally against the criteria contained in the person specification without exception or variation.

## **References**

**5.23** The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. "To Whom It May Concern". There have been instances of candidates forging references. Open references or testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments. Detailed guidance on references is provided further on.

## **Checks before interview**

**5.24** If a short-listed applicant claims to have specific qualification or previous experience that is particularly relevant to the post for which s/he is applying that will not be verified by a reference, it is good practice to verify the facts before interview so that any discrepancy can be explored at interview. The qualification or experience can usually be verified quickly by telephoning the relevant previous employer and asking for written confirmation of the facts.

## **Involving pupils and students**

**5.25** Involving pupils and students in the recruitment and selection process in some way, or observing short-listed candidates' interaction with them is common, and recognised as good practice. There are different ways of doing that. For example, candidates for teaching posts might be asked to teach a lesson, short-listed candidates might be shown round the school or FE college by students and a governor or senior member of staff, and/or meet with pupils and staff.

## **Interviews**

**5.26** The interview should assess the merits of each candidate against the job requirements, and explore their suitability to work with children. The selection process for people who will work with children should always include a face-to-face interview, even if there is only one candidate.

### **Invitation to interview**

**5.27** In addition to the arrangements for interviews – time and place, directions to the venue, membership of the interview panel – the invitation should remind candidates about how the interview will be conducted and the areas it will explore including suitability to work with children. Enclosing a copy of the person specification can usefully draw attention to the relevant information.

**5.28** The invitation should also stress that the identity of the successful candidate will need to be checked thoroughly to ensure the person is who he or she claims to be, and that where a DBS check is appropriate the person will be required to complete an application for a DBS Disclosure straightaway. Consequently all candidates should be instructed to bring with them documentary evidence of their identity that will satisfy DBS requirements, i.e. either a current driving licence or passport including a photograph, or a full birth certificate, plus a document such as a utility bill or financial statement that shows the candidate's current name and address, and where appropriate change of name documentation.

**5.29** Candidates should also be asked to bring documents confirming any educational and professional qualifications that are necessary or relevant for the post, e.g. the original or a certified copy of a certificate, or diploma, or a letter of confirmation from the awarding body. If the successful candidate cannot produce original documents or certified copies, written confirmation of his or her relevant qualifications must be obtained from the awarding body.

**5.30** A copy of the documents used to verify the successful candidate's identity and qualifications must be kept for the personnel file.

### **Interview panel**

**5.31** Although it is possible for interviews to be conducted by a single person it is not recommended. It is better to have a minimum of two interviewers and, in some cases, e.g. for senior or specialist posts, a larger panel might be appropriate. A panel of at least two people allows one member to observe and assess the candidate, and make notes, while the candidate is talking to the other. It also reduces the possibility of any dispute about what was said or asked during the interview.

**5.32** The members of the panel should:

- have the necessary authority to make decisions about appointment
- be appropriately trained
- meet before the interviews to:

- a. reach a consensus about the required standard for the job to which they are appointing
- b. consider the issues to be explored with each candidate and who on the panel will ask about each of those and
- c. agree their assessment criteria in accordance with the person specification.

**5.33** The panel should agree a set of questions they will ask all candidates relating to the requirements of the post, and the issues they will explore with each candidate, based on the information provided in the candidate's application and references (if available). A candidate's response to a question about an issue will determine whether and how that is followed up. Where possible it is best to avoid hypothetical questions because they allow theoretical answers. It is better to ask competence based questions that ask a candidate to relate how s/he has responded to, or dealt with, an actual situation, or questions that test a candidate's attitudes and understanding of issues.

### **Scope of the interview**

**5.34** In addition to assessing and evaluating the applicant's suitability for the particular post, the interview panel should also explore:

- the candidate's attitude toward children and young people
- his or her ability to support the authority or establishment's agenda for safeguarding and promoting the welfare of children
- gaps in the candidate's employment history and
- concerns or discrepancies arising from the information provided by the candidate and/or a referee.

**5.35** The panel should also ask the candidate if they wish to declare anything in light of the requirement for a DBS Disclosure.

**5.36** If, for whatever reason, references are not obtained before the interview, the candidate should also be asked at interview if there is anything s/he wishes to declare or discuss in light of the questions that have been (or will be) put to his or her referees. It is vital that the references are obtained and scrutinised before a person's appointment is confirmed and before s/he starts work.

### **Conditional offer of appointment**

**5.37** An offer of appointment to the successful candidate should be conditional upon:

- the receipt of at least two satisfactory references
- verification of the candidate's identity (if that could not be verified straight after the interview)
- where appropriate, a satisfactory DBS check
- verification of the candidate's medical fitness

- verification of qualifications (if not verified after the interview)
- verification of professional status where required e.g. GTCW registration, QTS status (unless properly exempted), National Professional Qualification for Headship (NPQH)
- (for teaching posts) verification of successful completion of statutory induction period (applies to those who obtained QTS after 7 May 1999)
- (for non teaching posts) satisfactory completion of the probationary period.

## **Pre-appointment checks**

**5.38** It is important that thorough pre-appointment checks are made on anybody whose work will bring them into contact with children and young people, both to prevent unsuitable people from gaining access to children and young people, and to maintain the integrity of the teaching profession.

**5.39** Those who employ people to work in schools, or FE college staff providing education, must carry out the following recruitment and vetting checks on intended new appointees:

- identity checks
- checks to confirm qualifications that are a legal requirement for the post, including: Qualified Teacher Status, registration with the GTCW and medical fitness requirements where appropriate
- checks to confirm the right to work in the United Kingdom and
- DBS disclosures.

**5.40** Employers must ensure that checks on a teacher's identity, medical fitness and references and previous employment history are undertaken. The requirement to carry out these checks applies to school, FE college and local authority staff who make relevant appointments. The same range of checks which are required for staff employed by schools and FE institutions are also required for supply staff, including those employed through employment agencies.

**5.41** Under the [Conduct of Employment Agencies and Employment Businesses Regulations 2003](#), employment agencies and employment businesses are not allowed to introduce or supply a work seeker to a hirer unless they have made checks to ensure that both work seeker and hirer are aware of any legal or professional body requirements, which either of them must satisfy to enable the work seeker to work for the hirer. So in the case of employment agencies and businesses supplying staff to schools or FE colleges, the agency should check that any supply staff have the qualifications required for the post the hirer is seeking to fill.

**5.42** Schools and FE colleges must ensure that their contracts or arrangements with supply agencies impose an obligation on the agency to carry out the same checks as schools and FE colleges do for their staff. For each individual supply staff member, schools and FE institutions must confirm with the agency that the appropriate checks have been carried out and are satisfactory.

**5.43** Local authorities, schools and FE colleges should ensure that the terms of any contract they have, that requires the contractor to employ staff to work with or provide services for children for whom the local authority, school or FE college is responsible, also requires the contractor to adopt and implement the measures described in this guidance. They should also monitor the contractor's compliance.. Schools and colleges should also ensure that those contracting with them to provide services that give rise to contact with children are carrying out appropriate checks.

**5.44** Volunteers are seen by children as safe and trustworthy adults, and if a school or FE college is actively seeking volunteers, and is considering candidates about whom it has little or no recent knowledge, it should adopt the same recruitment measures as it would for paid staff.

**5.45** All of the relevant checks should be satisfactorily completed before a person's appointment. In the case of DBS checks, the certificate should be seen before or, as soon as practicable, after appointment).

**5.46** A record must be kept to show that the above checks have been carried out for all relevant employees.

**5.47** All checks should be:

- confirmed in writing (in the case of agency staff, head teachers and principals must ask supply agencies to verify in writing that the relevant checks have been made)
- documented on the personnel file (subject to relevant advice contained in the [DBS Code of Practice](#) and the organisation's own data protection arrangements)
- followed up where they are unsatisfactory or where there are discrepancies in the information provided.

**5.48** Serious deliberate fraud or deception in connection with an application for employment may amount to a criminal offence (Obtaining Pecuniary Advantage by Deception). In such cases, the employer should consider reporting the matter to the police.

## **Identity**

**5.49** It is important to be sure that the person is who they claim to be. In some cases, the candidate will be known to the school or FE institution or will be employed by the local authority or a neighbouring establishment. If not, the employer should ask to see proof of identity, such as a birth certificate, driving licence or passport. If a teacher or worker is provided by a third party, such as an employment business or agency, the school or FE institution must check that the person who comes to them is the person referred by the employment business or agency, by carrying out these identity checks. Proof of identity will always be required for application to the DBS for a standard or enhanced check.



## Registration with the General Teaching Council for Wales

**5.50** All teachers with Qualified Teacher Status teaching in maintained schools, pupil referral units and non-maintained special schools in Wales are required to register with the General Teaching Council for Wales (GTCW). Employers (including local authorities, schools and supply agencies) must check with the GTCW whether teachers applying for positions in such schools are registered with the Council.

**5.51** If a teacher is registered this means:

- they have QTS. Anyone appointed or engaged to teach in a maintained school or non-maintained special school must either have QTS or come within one of the exceptions set out in the [Education \(Teachers' Qualifications and Health Standards\) \(Wales\) Regulations 1999](#)
- they have paid the annual GTCW registration fee
- they are not included on a barred list
- they have not failed the probation period
- they have not been removed from the register because of a restriction imposed by the GTCW or any other General Teaching Council
- they have been deemed suitable for registration having undergone a DBS check and satisfied Returning to Teaching criteria (if applicable).

**5.52** The only teachers with QTS who are exempted from the requirement to be registered with GTCW are:

- teachers employed only to provide part-time education to persons over compulsory school age
- those providing full-time education only to persons who have attained the age of 19 years
- those providing both such part-time and full-time education.

**5.53** Those exempted from the requirement to hold QTS are:

- trainee teachers undertaking teaching practice
- teachers working towards QTS through an employment-based programme
- teachers trained overseas but subject to time limitations
- unqualified teachers (e.g. instructors), where the school has been unable to find a qualified teacher with the necessary skills and expertise.

**5.54** These exceptions do not apply to candidates for head teacher and deputy head teacher posts in maintained schools; they must have QTS.

**5.55** Teachers who have trained overseas are currently exempt from the requirement to be registered with the GTCW or hold QTS, although their employment is subject to time limitations (as detailed in the [Education \(Teachers' Qualifications and Health Standards\) \(Wales\) Regulations 1999](#)). However, a teacher from the European Economic Area (EEA) may be awarded QTS on application, or an overseas-trained teacher may go on to be awarded QTS by following the Graduate

Teacher Programme (GTP), in which case the teacher would then need to be registered with GTCW.

## **Further education: recognised teaching qualifications**

**5.56** FE colleges must carry out enhanced DBS checks on those providing education and who regularly care for, train, supervise or have sole charge of persons aged under 18. This applies to teachers who are already qualified, working towards being qualified or those who are not yet qualified.

**5.57** The Welsh Government is committed to having a fully qualified teaching workforce in FE. FE colleges must check the qualifications of new FE teachers. Regulations passed in 2001 required all new FE teachers to hold, or be working towards, a recognised teaching qualification. Full-time teaching staff must become qualified within two years of a place becoming available on an approved training course. For part-time staff the requirement is up to four years. Accepted qualifications are Post Graduate Certificate of Education (PGCE) or Certificate of Education (Cert. Ed) awarded by a Higher Education Institute (HEI).

## **Professional and character references**

**5.58** References should always be taken up, and should be obtained directly from the referee. It is not good practice to rely solely on references or testimonials provided by the candidate. We strongly advise that a reference should be obtained from the current or most recent employer.

**5.59** The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, for example those that begin: "To whom it may concern". There have been instances of candidates forging references: open references or testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments.

**5.60** Ideally, references should be sought for all short-listed candidates, including internal ones, and should be obtained before interview so that any issues of concern they raise can be explored further with the referee, and taken up with the candidate at interview. In exceptional circumstances it might not be possible to obtain references prior to interview, either because of delay on the part of the referee, or because a candidate strongly objects to their current employer being approached at that stage, but that should, nevertheless, be the aim in all cases. It is up to the person conducting the recruitment process to decide whether to accede to a candidate's request to approach his or her current employer only if they are the preferred candidate after the interview. However, this is not recommended as good practice.

**5.61** In any case where a reference has not been obtained for the preferred candidate before interview, the prospective employer should ensure that it is received and scrutinised, and any concerns are resolved satisfactorily, before the person's appointment is confirmed.

All requests for references should seek objective, verifiable information and not subjective opinion. The use of reference pro formas can help achieve this. A copy of the job description and person specification for the post for which the person is applying should be included with all requests, and every request should ask:

- for details of the referee's relationship with the candidate, for example, whether they had a working relationship and, if so, what this relationship was
- the duration the referee has known the candidate, and in what capacity
- whether the referee is satisfied that the person has the ability and is suitable to undertake the job in question, for specific comments about the applicant's suitability for the post, and how the candidate has demonstrated that they meet the person specification
- whether the referee is completely satisfied that the candidate is suitable to work with children, and, if not, for specific details of the referee's concerns and the reasons why the referee believes the person might be unsuitable.

**5.62** Requests for references should remind the referee that:

- they have a responsibility to ensure that the reference is accurate and does not contain any material misstatement or omission
- relevant factual content of the reference may be discussed with the applicant.

**5.63** In addition to the above, requests addressed to a candidate's current or previous employer in work with children should also seek:

- confirmation of details of the applicant's current post, salary and sickness record
- specific verifiable comments about the applicant's performance history and conduct
- details of any disciplinary procedures the applicant has been subject to, where the disciplinary sanction is current
- details of any disciplinary procedures the applicant has been subject to involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, and the outcome of those procedures
- details of any allegations or concerns that have been raised about the applicant that relates to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns, such as whether the allegations or concerns were investigated, whether a conclusion was reached, and how the matter was resolved.

**5.64** On receipt, references should be checked to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered or the reference is vague or unspecific, the referee should be contacted and asked to provide written answers or clarification, as appropriate. The information given should

also be compared with the application form to ensure that the information provided by the referee about the candidate and their previous employment, is consistent with the information provided by the candidate on the form. Any discrepancy in the information should be taken up with the applicant.

**5.65** Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Cases in which an issue was satisfactorily resolved some time ago, or an allegation was determined to be unfounded or did not require formal disciplinary sanctions, and in which no further issues have been raised, are not likely to cause concern. More serious or recent concerns, or issues that were not resolved satisfactorily, are more likely to cause concern. A history of repeated concerns or allegations over time is also likely to give cause for concern.

## **Previous employment history**

**5.66** Employers should always ask for information about previous employment and obtain satisfactory explanations for any gaps in employment. If a candidate for a teaching post or other post within an educational setting is not currently employed as a teacher or worker, it is also advisable to check with the school, FE institution or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving.

## **Health**

**5.67** Anyone appointed to a post involving regular contact with children or young people should be medically fit (further details are available in the [Education \(Health Standards\) \(Wales\) Regulations 2004.](#))

## **Post-appointment: maintaining a safer culture**

**5.68** It is important that all staff in an establishment have appropriate training and induction so that they understand their safeguarding roles and responsibilities and are confident about carrying them out. Staff, pupils, students and parents also need to feel confident that they can raise issues or concerns about the safety or welfare of children, and that they will be listened to and taken seriously. That can be achieved by maintaining an ethos of safeguarding and promoting the welfare of children and young people, and protecting staff, which is supported by:

- a clear written statement of the standards of behaviour and the boundaries of appropriate behaviour expected of staff and pupils that is understood and endorsed by all
- appropriate induction and training
- regular briefing and discussion of relevant issues
- including relevant material from the framework for Personal Social and Health Education in the curriculum
- ensuring all those working with children in education settings are familiar with the good practice guidance, which is in Appendix 1 of this document

- a clear reporting system if a pupil, learner, member of staff or other person has concerns about the safety of children.

## **Induction**

**5.69** There should be an induction programme for all staff and volunteers newly appointed in an establishment, including teaching staff and regardless of previous experience. The purpose of induction is to:

- provide training and information about the establishment's policies and procedures
- support individuals in a way that is appropriate for their role
- confirm the conduct expected of staff within the school or FE college
- provide opportunities for a new member of staff or volunteer to discuss any issues or concerns about their role or responsibilities
- enable the individual's line manager or mentor to recognise any concerns or issues about the individual's ability or suitability at the outset and address them immediately.

**5.70** The content and nature of the induction process will vary according to the role and previous experience of the new member of staff or volunteer, but as far as safeguarding and promoting the welfare of children is concerned, the induction programme should include information about, and written statements of:

- policies and procedures in relation to safeguarding and promoting welfare e.g. child protection, anti-bullying, anti-racism, physical intervention or restraint, intimate care, internet safety and any local child protection and safeguarding procedures
- safe practice and the standards of conduct and behaviour expected of staff and pupils in the establishment
- how and with whom any concerns about those issues should be raised
- other relevant personnel procedures, such as disciplinary, capability and whistle blowing procedures.

**5.71** The induction should also include attendance at child protection training appropriate to the individual's role.

## **Newly Qualified Teachers (NQTs)**

**5.72** Induction supports the development of NQTs during their first year in post by encouraging them to focus and reflect on the advancement of their professionalism, knowledge, understanding and skills. Induction also provides induction mentors with professional development opportunities, ensuring that NQTs receive high quality induction through support, advice, feedback and encouragement.

**5.73** Induction is a statutory requirement for all NQTs in Wales who gain QTS after 1st April 2003. The statutory induction period provides all NQTs with a bridge from initial teacher education and training to effective professional practice. The induction period usually takes place over three full terms (one school year) or the equivalent,

though there is flexibility for teachers who work part-time, have breaks in their employment or work on a short-term supply basis.

**5.74** Induction in Wales comprises the following aspects:

- a programme of professional development, monitoring and support, based around the core priorities in areas that are key to improving standards of teaching and for improving learner outcomes. These priorities are: literacy, numeracy, reducing the impact of poverty on attainment, additional learning needs, behaviour management and reflective practice
- the support of a mentor throughout the induction period
- a 10% reduction in the NQT's timetable (this is outlined in the School Teachers' Pay and Conditions Document)
- assessment against the [Practising Teacher Standards](#) (PTS).

**5.75** For a period of employment to count towards statutory induction, a NQT must have qualified teacher status, must be registered with the GTCW and must be employed in a maintained school or non-maintained special school.

**5.76** The GTCW is responsible for the administration of the funding of the induction programme. Further information can be found on the [GTCW website](#).

**5.77** [Revised induction regulations](#) came into force on 1 September 2012 which have strengthened the induction arrangements by introducing more consistency in the content of induction and in the rigour of assessment. The changes will ensure a more robust approach to induction for NQTs. They will also help to improve the quality of support provided to NQTs during their induction and assist in ensuring that all decisions made by the appropriate body (usually the local authority) at the end of the induction period are of the highest quality.

**5.78** FE Institutions and independent schools can also offer statutory induction if they choose to, provided that they can comply with all aspects of the [Education \(Induction Arrangements for School Teachers\) \(Wales\) \(Amendment\) Regulations 2012](#).

**5.79** For NQTs commencing their induction period on or after 1 September 2012, new arrangements will apply. The main changes include:

- NQTs will be required to complete an induction period of three school terms or the equivalent period of time as 380 school sessions (one session is equivalent to a morning or afternoon of teaching)
- NQTs without regular employment can accrue school sessions until 380 sessions have been completed
- NQTs will be assessed against the [Practising Teacher Standards](#) at the end of the induction period and will be required to gather evidence of how their own practice meets the PTS
- the support and supervision of the NQT will be carried out through a partnership between the school(s) where the NQT works and an external mentor working on behalf of the appropriate body

The introduction of an optional Masters in Educational Practice (MEP) for NQTs commencing their induction period from September 2012. This is intended to run concurrently with the induction period and provide the basis for early professional development beyond the end of the induction period. Eligibility criteria for the MEP can be found at the [Cardiff School of Social Sciences website](#).

## **Monitoring and assurance**

**5.80** Monitoring of both the recruitment process and induction arrangements will help better inform future recruitment practices. This monitoring should cover staff turnover and reasons for leaving, exit interviews and the attendance of new recruits at child protection training.



## Chapter 6: The Disclosure and Barring Service

**6.1** The chapter is a summary of key issues addressed through the Disclosure and Barring Service (DBS) which came into effect in September 2012 under the [Protection of Freedoms Act 2012](#). Detailed, comprehensive and up-to-date guidance on the operation of the DBS must be obtained from the [DBS website](#). To subscribe for up-to-date information, you can [register your interest on the DBS e-database](#) so to keep informed of any changes to the DBS services.

**6.2** Pre-employment checks are a key preventative measure to minimise the possibility of children suffering harm from those in positions of trust. However, it is only one of a number of important elements in the recruitment process and should be considered together with other key aspects covered in more detail in chapter 5.

### The Disclosure and Barring Service

**6.3** The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) merged in 2012 into the DBS. CRB checks are now called DBS checks. The DBS helps employers make safer recruitment decisions and helps prevent unsuitable people from working with vulnerable groups, including children, through its criminal record checking and barring functions.

#### Criminal record checking

**6.4** The checking service allows employers to access the criminal record history of people working, or seeking to work in certain positions, especially those that involve working with children or adults in specific situations. The DBS issues three types of disclosure, each representing a different level of check. The level of check is determined by the duties of the particular position or job involved. Further information on these checks can be obtained from the DBS.

#### Referrals and barring

**6.5** The barring provision of the DBS provides expert caseworkers who process referrals about individuals who have harmed or pose a risk of harm to children or vulnerable groups. They make decisions about who should be placed on the children's and/or adult's barred list and are prevented by law from working with children or vulnerable groups. It is against the law for employers to employ someone or allow them to volunteer in this kind of work if they are on one of the barred lists.

#### Types of check

**6.6** The DBS is responsible for administering three types of checks (further detail is provided at Appendix 5):

- **Standard:** a check of the Police National Computer (PNC) records of convictions, cautions, reprimands and warnings
- **Enhanced:** a check of the PNC records as above, plus other information held by the police that is considered relevant by the police

- **Enhanced with barred list information:** for people working in regulated activity with children. This adds checks of the DBS children's barred list to the enhanced check.

**6.7** Since May 2013 the DBS has been able to remove certain specified old and minor offences from criminal record certificates issued. Further [guidance](#) on this is available on the DBS website.

**6.8** The DBS has produced a [fact sheet](#) which explains which offences will, or may, subject to representations, lead to a person being included in a barred list. The DBS also has a confidential checking process for transgender applicants who don't want to reveal details of their previous identity to a potential employer. For information, email: [sensitive@dbs.gsi.gov.uk](mailto:sensitive@dbs.gsi.gov.uk).

**6.9** When the DBS has completed its check of an applicant's PNC record and, if appropriate, whether or not they are on the barred list, the relevant information will be recorded on a certificate (the DBS certificate) that is sent to the applicant. The applicant must show the DBS certificate to their potential employer before they take up post or as soon as practicable afterwards. If a school or college allows an individual to start work in regulated activity before the DBS certificate is available then they should ensure that the individual is appropriately supervised and that all other checks, including a separate barred list check, have been completed.

**6.10** If a school or Further Education institution knows or has reason to believe that an individual is barred, it commits an offence if it allows the individual to carry out any form of regulated activity. There are penalties of up to five years in prison if a barred individual is convicted of attempting to engage or engaging in such work.

## **The DBS update service**

**6.11** The DBS 'update service' will change the way individuals use the DBS and how employers check their suitability. It will reduce the number of criminal record checks people need to have. The update service costs £13 per annum (at December 2014) and enables people to have their criminal record check kept up-to-date so they can take their DBS certificates with them when they move from role to role, within the same workforce.

**6.12** When an employer recruits new staff, if they have registered with the DBS update service, they can undertake a free, online status check of an employee's certificate (with their consent) to see if any new information has come to light since the DBS certificate's issue. If an individual subscribes to the update service, employers would only have to seek a new disclosure and barring check if the system informs them that something has changed.

**6.13** Status checks can be carried out as and when employers need to, as long as the individual has subscribed to the update service. The employer must also have the individual's consent before doing so (employers may want to get consent each time they perform a status check or may consider asking the individual for ongoing consent). Employers can choose to pay for, or reimburse, the applicant's annual update service subscription fee. The individual will be able to see who has carried out

a status check, and when, from their online account.

**6.14** To carry out a status check of a DBS certificate, an employer must:

- have the applicant's consent
- confirm that they are legally entitled to carry out the status check
- see the original certificate to check it is the same type and level as they are legally entitled to apply for
- make sure that the right checks have been carried out and see what, if any, information was disclosed about the applicant
- check the person's identity
- check the name on the DBS certificate matches this identity
- note the DBS certificate reference number, the person's name and date of birth
- comply with the DBS Code of Practice which includes having a policy on the recruitment of ex-offenders (a sample is available from the DBS website at <http://www.gov.uk/dbs>) and make this available to the person.

## **Regulated activity**

**6.15** The DBS only covers those who may have regular or close contact with children or vulnerable groups, defined as regulated activity. Being clear about the definition of regulated activity matters because:

- roles that fall within the definition of regulated activity will require an enhanced DBS check and the appropriate barred list check (for children, adults or both)
- an organisation which knowingly allows a barred person to work in regulated activity will be breaking the law
- if you dismiss or remove someone from regulated activity (or you would have done had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children, you are legally required to forward information about that person to the DBS (the 'duty to refer'). It is a criminal offence not to do so. If you believe that the person has committed a criminal offence, you are also strongly advised to pass the information to the police.

**6.16** Regulated activity is defined as unsupervised activity in a limited range of establishments with the opportunity for contact with children – these are defined as 'specified places' and include schools, children's homes, child care premises and pre-school establishments. The full definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended by the [Protection of Freedoms Act 2012](#). The UK Government has produced a [factual note on regulated activity in relation to children](#).

**6.17** Under the DBS the scope of regulated activity includes unsupervised activities, such as:

- teaching

- training
- instructing
- caring for or supervising children
- providing advice or guidance on well-being
- driving a vehicle only for children.

**6.18** In addition, to be regarded as regulated activity, this unsupervised activity enacted within a specified place must be done regularly. Regularly means carried out by the same person frequently (once a week or more often), or on four or more days in a 30 day period (or in some cases, overnight).

**6.19** Regulated activity still excludes family arrangements and personal, non-commercial arrangements.

**6.20** For those people who do not work in regulated activity but nevertheless work, paid or unpaid, with children, their employers may, but will not be required to, obtain relevant checks – but it will be unlawful to check if they are on a barred list.

## **Who requires a DBS check?**

**6.21** Only certain types of employers are entitled by law to ask someone to apply for a check through the DBS. This is known as asking an ‘exempted question’ – a valid request for a person to reveal their full criminal history, including spent convictions – which when answering, the applicant would have a legal obligation to reveal spent convictions.

**6.22** The Rehabilitation of Offenders Act 1974 enables criminal convictions to be ignored after a period of rehabilitation. However, certain employments are exempt from the Act so that individuals are not allowed to withhold details of any previous convictions in relation to their employment or proposed employment. Any work involving regular contact with children in a FE institution or educational setting is exempted, as detailed below.

**6.23** Schedule 1 Part II of the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975](#) states that the following employments and specific occupations are listed as ‘exemptions’:

- any employment as a teacher in a school or establishment for further education and any other employment which is carried out wholly or partly within the precincts of a school or establishment for further education, being employment which is of such a kind as to enable the holder to have access to persons under the age of 18 in attendance at the school or establishment for further education in the course of his normal duties.
- proprietors of independent schools.

**6.24** Therefore, anyone applying for one of the above positions is exempt from the provisions of the Rehabilitation of Offenders Act 1974, and must give written details of all criminal convictions, including those that would normally be regarded as ‘spent.’

**6.25** If a role is not listed as an ‘exception’ under the Rehabilitation of Offenders Act 1974, a person with a criminal record is not legally required to disclose any spent convictions. If an applicant has a conviction that has become spent, the employer must treat the applicant as if the conviction has not happened. A refusal to employ a rehabilitated person on the grounds of a spent conviction is unlawful under the Act.

## **Paid teaching and non-teaching staff**

**6.26** All new paid teaching and non-teaching staff appointed to paid posts in schools or FE institutions that involve caring for, supervising or being in sole charge of children must undergo a pre-employment check before taking up post.

**6.27** Under the DBS, teachers and non-teaching staff are regarded as undertaking unsupervised regulated activity in a specified place, such as a school. Consequently, the type of staff listed below require an enhanced disclosure certificate and employers must check that they are not on the DBS barred lists of individuals who are unsuitable to work with children:

- Full and part-time teachers
- non-teaching staff, such as:
  - school class-room assistants
  - school technical or laboratory assistants
  - school librarians
  - school office staff
  - school caretakers
  - school catering staff
  - school cleaning staff
  - school grounds staff
  - school nurses
  - school bursars
  - modern language assistants

## **Agency staff**

**6.28** Under the [Conduct of Employment Agencies and Employment Businesses Regulations 2003](#), employment agencies and employment businesses are not allowed to introduce or supply a candidate to a prospective employer unless they have made checks to ensure that both candidate and employer are aware of any legal or professional body requirements, which either of them must satisfy to enable the candidate to work for the employer.

**6.29** Where supply staff are employed directly by the school or FE institution, they must ensure that all relevant DBS checks have been completed, as they would be for other employed staff.

**6.30** Where supply teachers are employed by an agency, schools must require (through the contract or other arrangements which it makes with the supply agency) the supply agency to provide written notification to confirm:

- that relevant disclosures have been requested from that individual
- whether or not the disclosure has been received
- if received, whether it included any disclosed information.

**6.31** If the disclosure certificate has not yet been received by the agency, the school must require the agency to notify it of the content as soon as the disclosure is received.

**6.32** Schools may ask supply teachers to produce their copy of the enhanced disclosure to provide assurance that the check has been made, and may ask agencies to confirm the validity of the document. Schools and FE colleges must record whether those checks have been carried out on the single central record.

### **Emergency cover for non-teaching staff**

**6.33** In addition, situations will arise unexpectedly, where non-teaching staff are required to cover for permanent staff in the case of an emergency. It may be necessary that, in these circumstances, temporary arrangements have to be put in place quickly for such staff before a check can be carried out.

**6.34** In situations where it is not possible to obtain a check in advance, head teachers must carry out a risk assessment and, in such circumstances, all necessary steps should be taken to ensure the safeguarding of children and young people.

### **Applicants for teacher training courses**

**6.35** The following applicants for initial teacher training courses are likely to require an enhanced disclosure certificate:

- students who will undertake teaching practice in schools
- students who will be responsible for caring for, training, supervising or being in sole charge of children as part of their course
- students who will have unsupervised access to children as part of the course.

**6.36** Such students should be asked to obtain a disclosure after the institution has decided to offer a place and before the start of the course. Institutions may wish to offer a place conditional on a satisfactory check.

**6.37** It is the responsibility of the institution to decide whether to accept a candidate onto a course in light of any criminal record the candidate may have. Institutions will need to take account of the views of head teachers and others in whose schools they normally place student teachers, and the kind of offences that they would regard as unacceptable.

**6.38** Institutions must not disclose information gained from a disclosure to a third party, such as a school or a local authority, without the person's written consent. Under the terms of the Police Act 1997, unauthorised disclosure of such information

is an offence. Teaching training providers must ensure they adhere to the [DBS code of practice](#).

**6.39** Teacher training providers should ensure that they have had sight of disclosure certificates prior to a trainee commencing school or FE college-based elements of their training.

**6.40** Head teachers and principals will have discretion to allow an individual to begin school or FE college-based training pending receipt of the disclosure, provided that the trainee is appropriately supervised, in line with the [Statutory Guidance on Supervision](#).

## **Extended school arrangements**

**6.41** Many primary and secondary schools already offer breakfast and after school clubs, and other services. Requirements placed on schools relating to existing staff and volunteers will extend to incorporate those involved in the provision of extended activities. Where the governing body provides activities directly under the supervision or management of school staff, the school's arrangements for appointments, recruitment checks and record keeping will apply. Where schools are planning to deliver childcare directly, they should contact [the Care and Social Services Inspectorate Wales \(CSSIW\)](#) for information about the registration process, as childcare provision for children aged under eight must be registered separately by CSSIW.

**6.42** Where a third party is responsible for running activities, there should be a clear line of accountability and written agreements setting out responsibility for carrying out the recruitment and checks on staff and volunteers.

**6.43** Schools that choose to provide their childcare through private or voluntary sector providers should use CSSIW-registered providers for provision for children aged under eight years. Registered childcare providers should apply to the DBS for enhanced disclosures. It is the responsibility of the childcare provider to make sure that members of staff, or new people who work on the premises, are suitable to care for, or have regular contact with, children. The registered childcare provider must ensure that their staff and volunteers are not on a barred list and have applied to the DBS for an enhanced disclosure.

**6.44** Written agreements should be in place with any third party providers or groups using the site. These should set out the respective responsibilities of the governing body and those of the provider or group. Local authorities are well placed to advise on the practical implementation of extended services, and to share written agreements that have worked well elsewhere. These should set out responsibility for areas such as health and safety, recruitment and pre-employment checks. Where services are being developed, the schools' insurance provider should be consulted to ensure that the provision is covered adequately. All staff and providers working on or managing the site out of hours should have training on issues such as emergency evacuation procedures. Staff and their professional associations must know who they are accountable to and for what, and must be consulted when services are developing.



**6.45** Where the governing body provides services or activities directly under the supervision or management of school staff, the school's arrangements for staff appointments will apply. Governors need to be aware that it is their responsibility to ensure that proper records are kept.

## **Volunteers**

**6.46** A volunteer is defined as a person who performs an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.

**6.47** Whether a volunteer is supervised will determine if they are working in regulated activity or not, which will then decide if an enhanced disclosure certificate is required. Volunteers working in schools or FE institutions are not considered as being in regulated activity, providing the school or FE institution can ensure reasonable supervision on a regular basis. It will be a matter for schools to determine whether the level of supervision meets the standards set out in [Statutory Guidance on Supervision](#).

**6.48** Under no circumstances should a volunteer in respect of whom no checks have been obtained be left unsupervised or allowed to work in regulated activity. For new volunteers in regulated activity, who will regularly teach or look after children on an unsupervised basis or provide personal care on a one-off basis, schools and colleges must obtain an enhanced DBS certificate with a barred check.

**6.49** For new volunteers not in regulated activity, schools and FE institution should obtain an enhanced DBS certificate.

**6.50** For existing volunteers who provide personal care, the school or FE institution should consider obtaining an enhanced DBS certificate with a barred list check.

**6.51** For other existing volunteers who are unsupervised and continuing with their current duties, unless there is cause for concern, the school or college should not request a DBS check with a barred list check because the volunteer should already have been checked.

**6.52** For existing volunteers not in regulated activity there is no requirement to request an enhanced DBS check. However, the school or college may choose to request one as they judge necessary, but may not request a check of the barred list.

**6.53** If a volunteer is not engaging in regulated activity, the school or college should undertake a risk assessment and use their professional judgement and experience when deciding whether to seek an enhanced DBS check. They should consider:

- the nature of the work with children
- what the establishment knows about the volunteer, including formal or informal information offered by staff, parents and other volunteers
- whether the volunteer has other employment or undertakes voluntary activities where referees can advise on suitability

- whether the role is eligible for an enhanced DBS check.

**6.54** In recognition of the value of volunteers to many organisations, the DBS processes volunteer disclosure applications free-of-charge. The update service is also free for volunteers.

## **Visitors to schools**

**6.55** Schools and FE colleges do not have the power to request DBS checks and barred list checks, or ask to see DBS certificates, for visitors. Head teachers and staff should use their professional judgement about the need to escort visitors.

**6.56** Visits should be managed by school staff and arrangements might ensure that visitors are:

- signed in and out of the school by staff
- if appropriate, given restricted access only to specific areas of the school
- where possible, escorted around the school premises by a member of staff
- if left unattended, clearly identified with visitor or contractor passes and their access to pupils restricted to the purpose of their visit
- if carrying out building, maintenance or repair tasks, then their work area is cordoned off from pupils for health and safety reasons.

## **Members of boards of governors**

**6.57** For the purposes of the DBS, governors who are volunteers should be treated on the same basis as other volunteers. That is, an enhanced DBS check with a barred list check should only be requested if the governor will be engaged in regulated activity. Governing bodies can request an enhanced DBS check without a barred list check on an individual as part of the appointment process for governors.

## **When and how often must someone apply for a disclosure?**

**6.58** Schools, FE colleges or local authorities are not required to ask existing staff, in post, to apply for a new DBS disclosure, unless:

- there are concerns about the person's suitability to work with children, or
- an individual's role changes to involve greater contact with children, and their previous work did not require an enhanced disclosure.

**6.59** New disclosures are required for staff who:

- take up a new appointment with a different employer
- are reappointed or re-elected as a governor
- have a break in service of three months or more
- move to a post with significantly greater responsibility for children and young people

- the employer has grounds for concern about regarding their suitability to work with children.

**6.60** Depending on an individual's circumstances and employment history, a check may not be required for paid teaching and non-teaching staff moving to a new school, local authority or FE college. Employers may rely on checks made during any previous employment provided that:

- their previous employment history within the education sector can be verified
- their break in employment in the education sector is not longer than three months
- it can be confirmed that a disclosure was in place before they finished working at their previous school.

**6.61** It is for the employer to determine whether to accept a previously-issued check and to decide if it is recent enough or suitable for the current purpose. There is no official expiry date for a DBS check. DBS certificates only contain information from a DBS check on a certain date and for a particular purpose and therefore the following should be considered before making a decision:

- the applicant's criminal record or other relevant information may have changed since its issue
- the decision made by a Chief Police Officer to disclose information on a previous CRB or DBS certificate was made based on the position for which the criminal record check was originally applied for. You cannot assume that no further intelligence would be disclosed for a different position.
- The information revealed was based on the identity of the applicant, which was validated by another registered body at the time that the original check was requested. Therefore, you should ensure that the identity details on the certificate match those of the applicant.

## **Starting work pending a disclosure**

**6.62** Where a disclosure is required, it should be obtained before an individual begins work. It must be obtained as soon as practicable after the individual's appointment and the request for a disclosure should be submitted in advance of the individual starting work. Head teachers, principals and local authorities have discretion to allow an individual to begin work within their schools or colleges pending receipt of the disclosure, but should ensure that the individual is appropriately supervised in line with the [Statutory Guidance on Supervision](#).

**6.63** Appropriate supervision for individuals who start work prior to the result of a disclosure being known needs to reflect what is known about the person concerned, their experience, the nature of their duties and the level of responsibility they will carry. For those with limited experience and where references have provided limited information, the level of supervision required may be high. For those with more experience, and where the references are detailed and provide strong evidence of good conduct in previous relevant work, a lower level of supervision may be

appropriate. For all staff without completed disclosures, it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision spelt out. The arrangements should be reviewed regularly, until the disclosure is received.

**6.64** Before taking on a member of supply staff from an agency, a school or FE college must obtain a written notification from the agency that: demonstrates that relevant disclosures have been requested for that individual; outlines whether or not the disclosure has been received; and if received, whether it included any disclosed information. Where there is disclosed information, the school or FE college must obtain a copy of the disclosure from the agency. If the disclosure has not been received yet by the agency, the school must require the agency to notify it of the content as soon as it is received.

**6.65** Where a disclosure indicates cause for concern, either for agency or directly employed staff, the member of staff must immediately be withdrawn from the school or FE college pending further enquiries.

### **How to decide whether a person's criminal record is relevant**

**6.66** An applicant's suitability should be judged in light of the results of all the relevant pre-appointment checks carried out. The fact that the person has a criminal record does not automatically make them unsuitable for work with children or young people. You should not discount someone from a job just because information has been disclosed on a DBS certificate, or a previously issued CRB check.

**6.67** Employers must make a judgement about an individual's suitability to work with children, taking into account only those offences which may be relevant to the particular job or situation in question.

**6.68** In deciding the relevance of convictions, a number of points might be considered:

- The nature of the offence - in general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for work with children and young people.
- The nature of the appointment - often the nature of the appointment will help to assess the relevance of the conviction. For example, serious sexual, violent, drug or drink offences would give rise to particular concern where a position was one of providing care. Driving or drink offences would be relevant in situations involving transport of children and young people.
- The age of the offence - offences which took place many years in the past may often have less relevance than recent offences. However, convictions for serious violent or sexual offences, or serious offences involving substance abuse are more likely to give cause for continuing concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation must be weighed against the need to protect children and young people.

- The frequency of the offence - a series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

**6.69** If a disclosure reveals that the DBS has placed restrictions on a person's employment, the person must not in any circumstances be placed in a post which would infringe those restrictions, and the registered person should tell the head teacher or college principal about the terms of the restrictions placed on the person's employment.

**6.70** It is an offence for a disqualified person to apply for, offer to do, accept or do any work in any of the regulated positions. It is also an offence for an employer knowingly to offer work in a regulated position to an individual who is disqualified from working with children, or to fail to remove such an individual from such work. The DBS will inform the police if a disqualified person attempts to obtain work with children and young people.

## **Recruitment of ex-offenders**

**6.71** If you carry out criminal records checks, you must have a policy on employing ex-offenders. You must show it to any applicant who asks for it. The DBS has developed a [specimen policy on the recruitment of ex-offenders](#) to help guide organisations.

## **Fraudulent applications**

**6.72** Serious, deliberate fraud or deception in connection with an application for employment may amount to a criminal offence (Obtaining Pecuniary Advantage by Deception). In such cases the employer should, in addition to any planned disciplinary action, consider reporting the matter to the police.

## **How to store and handle DBS certificate information**

**6.73** Anybody who receives a standard or enhanced DBS certificate must comply with the [Code of Practice](#) for registered persons and other recipients of DBS check information, published under section 122 (2) of the [Police Act 1997](#). The code requires that:

- information released must be used fairly and considered only for the purpose for which it was obtained
- information released is handled and stored appropriately
- all registered bodies must have a written policy on the correct handling and safekeeping of DBS certificate information. The DBS has produced a [sample policy statement](#) on the handling and storage of DBS certificate information which can be used or adapted for this purpose
- information is kept for only as long as necessary and is destroyed after a suitable period has passed. In general, this should be no later than six months after the date on which recruitment or other relevant decisions have been taken or after the date on which any dispute has been

resolved. This period should only be exceeded in very exceptional circumstances which justify retention for a longer period. Before the disclosure is destroyed, records need to be kept detailing the date the disclosure was obtained, who obtained it (i.e. a school, FE college, local authority or supply agency), the level of the disclosure, and the unique reference number. The head teacher, principal, college or local authority will also want to consider keeping a note of what other information was used to assess suitability.

**6.74** Organisations must satisfy the DBS that they are complying with the Code of Practice. This means cooperating with requests from the DBS to undertake assurance checks, as well as reporting any suspected malpractice in relation to the code or misuse of DBS certificates.

### **Single central record of disclosure and barring checks**

**6.75** In addition to the various staff records which are kept as part of normal business, schools and FE colleges must also keep and maintain a single central record of recruitment and vetting checks.

**6.76** Schools and FE colleges must have a record of the following people:

- all staff who are employed to work at the school and those staff in FE colleges providing education
- all staff who are employed as supply staff to the school or as supply staff providing education to the FE college, whether employed directly by the school, FE college or local authority, or through an agency.

**6.77** The central record must indicate whether or not the following have been completed:

- identity checks
- qualification checks for any qualifications legally required for the job
- for those applying for teaching posts, a registration check with the GTCW, where appropriate
- checks of the right to work in the United Kingdom
- DBS enhanced disclosure. Within FE colleges this is only for those staff providing education and who regularly care for, train, supervise or have sole charge of persons aged under 18
- further overseas records checks where appropriate.

**6.78** The record must also show the date on which each check was completed or the relevant certificate obtained, and should show who carried out the check.

### **Sharing information from a disclosure**

**6.79** Information disclosed as part of a DBS disclosure must be treated as confidential. The Police Act 1997 makes it a criminal offence for any information revealed in a standard or enhanced disclosure to be passed to anyone who does not

need it in the course of their duties.

**6.80** However, regulations under the Police Act provide for information to be passed on in various circumstances. For example:

- a disclosure may be passed from agency to agency, between local authorities and agencies, and between schools or FE colleges and agencies if the subject gives written consent
- the person who countersigned an application for disclosure can share the information with another member of the registered body if the other person needs to know the information for the purpose of their duties
- if the person countersigned the application on behalf of another body (for example if a local education authority arranged a check for a school) the counter-signatory can pass the information to that body
- where a body receives information from a registered person as above, the information can be shared with members of that body who need to know it for the purposes of their duties
- agencies can pass disclosure information to schools or FE colleges where the subject's suitability for work at the school or FE college is under consideration
- information can be passed to a government department

**6.81** If anyone in possession of disclosure information is in any doubt about whether they can pass on the information to someone else, they should seek advice from the lead counter-signatory of the registered body which authorised the check.



# Appendix 1: Model child protection policy

## Child protection policy for (Name of School)

### 1. Introduction

(Name of School) fully recognises the contribution it makes to child protection. There are three main elements to our policy:

- prevention through the teaching and pastoral support offered to pupils
- procedures for identifying and reporting cases, or suspected cases, of abuse. Because of our day to day contact with children school staff are well placed to observe the outward signs of abuse
- support to pupils who may have been abused.

Our policy applies to all staff and volunteers working in the school and governors. Learning support assistants, mid-day supervisors, caretakers, secretaries as well as teachers can be the first point of disclosure for a child.

### 2. Prevention

We recognise that high self-esteem, confidence, supportive friends and good lines of communication with a trusted adult helps to safeguard pupils. The school will therefore:

- establish and maintain an ethos where children feel secure and are encouraged to talk, and are listened to
- ensure children know that there are adults in the school whom they can approach if they are worried or in difficulty
- include in the curriculum, activities and opportunities for Personal Social Education (PSE) which equip children with the skills they need to stay safe from abuse and to know to whom to turn for help
- include in the curriculum, material which will help children develop realistic attitudes to the responsibilities of adult life, particularly with regard to childcare and parenting skills.

### 3. Procedures

We will follow the All Wales Child Protection Procedures that have been endorsed by the Local Safeguarding Children Board. The school will:

- ensure it has a designated senior person for child protection who has undertaken the appropriate training
- recognise the role of the designated senior person and arrange support and training. Schools may wish to mention the additional training undertaken by their designated senior person
- ensure every member of staff and every governor knows:
  - the name of the designated senior person and their role and the

- designated governor for child protection
  - that they have an individual responsibility for referring child protection concerns using the proper channels and within the timescales agreed with the Local Safeguarding Children Board
  - how to take forward those concerns where the designated senior person is unavailable.
- ensure that members of staff are aware of the need to be alert to signs of abuse and know how to respond to a pupil who may disclose abuse
- ensure that parents have an understanding of the responsibility placed on the school and staff for child protection by setting out its obligations in the school brochure
- provide training for all staff so that they know:
  - their personal responsibility
  - the agreed local procedures
  - the need to be vigilant in identifying cases of abuse
  - how to support a child who discloses abuse.
- notify the local social services team if:
  - a pupil on the child protection register is excluded either for a fixed term or permanently
  - if there is an unexplained absence of a pupil on the child protection register of more than two days duration from school (or one day following a weekend)
- work to develop effective links with relevant agencies and co-operate as required with their enquiries regarding child protection matters including attendance at initial review and child protection conferences and core groups and the submission of written reports to the conferences
- keep written records of concerns about children (noting the date, event and action taken), even where there is no need to refer the matter to social services immediately
- ensure all records are kept secure and in locked locations
- adhere to the procedures set out in the Welsh Government circular 002/2013: 'Disciplinary and Dismissal Procedures for School Staff'
- ensure that recruitment and selection procedures are made in accordance with Welsh Government guidance 'Keeping Learners Safe'
- designate a governor for child protection who will oversee the school's child protection policy and practice.

#### **4. Supporting the pupil at risk**

We recognise that children who are at risk, suffer abuse or witness violence may be deeply affected by this.

This school may be the only stable, secure and predictable element in the lives of children at risk. Nevertheless, when at school their behaviour may be challenging and

defiant or they may be withdrawn.

The school will endeavour to support the pupil through:

- the content of the curriculum to encourage self esteem and self motivation (see section 2 on prevention)
- the school ethos which:
  - promotes a positive, supportive and secure environment
  - gives pupils a sense of being valued (see section 2 on Prevention)
- the school's behaviour policy is aimed at supporting vulnerable pupils in the school. All staff will agree on a consistent approach which focuses on the behaviour of the offence committed by the child but does not damage the pupil's sense of self worth. The school will endeavour to ensure that the pupil knows that some behaviour is unacceptable but s/he is valued and not to be blamed for any abuse which has occurred;
- liaison with other agencies who support the student such as Social Services, Child and Adolescent Mental Health Services, the Educational Psychology Service, Behaviour Support Services, the Education Welfare Service and advocacy services
- keeping records and notifying Social Services as soon as there is a recurrence of a concern

When a pupil on the child protection register leaves, we will transfer information to the new school immediately and inform Social Services.

## **5. Bullying**

Our policy on bullying is set out in (*a separate document/ the school's behaviour policy*) and is reviewed annually by the governing body.

## **6. Physical intervention**

Our policy on physical intervention is set out in (*a separate document*) and is reviewed annually by the governing body and is consistent with the Welsh Government guidance on Safe and effective intervention – use of reasonable force and searching for weapons 097/2013

## **7. Children with Special Educational Needs**

We recognise that statistically children with behavioural difficulties and disabilities are most vulnerable to abuse. School staff who deal with children with profound and multiple disabilities, sensory impairment and or emotional and behaviour problems need to be particularly sensitive to signs of abuse.

## Appendix 2: Model note for staff

### What to do if a child tells you they have been abused by someone other than a member of staff

*N.B. Where the allegation is against a member of staff you should refer to Welsh Government Circular 002/2013: [Disciplinary and Dismissal Procedures for School Staff](#).*

A child may confide in any member of staff and may not always go to a member of the teaching staff. Staff to whom an allegation is made should remember:

- yours is a listening role, do not interrupt the child if he or she is freely recalling significant events. Limit any questions to clarifying your understanding of what the child is saying. Any questions should be framed in an open manner so as not to lead the child
- you must report orally to the school's designated senior person for child protection immediately
- make a note of the discussion, as soon as is reasonably practicable (but within 24 hours) to pass on to the school's designated person for child protection. The note which should be clear in its use of terminology should record the time, date, place and people who were present and should record the child's answers/responses in exactly the way they were said as far as possible. Remember, your note of the discussion may be used in any subsequent court proceedings
- do not give undertakings of absolute confidentiality
- that a child may be waiting for a case to go to the criminal court, may have to give evidence or may be awaiting care proceedings
- your responsibility in terms of referring concerns ends at this point, but you may have a future role in terms of supporting or monitoring the child, contributing to an assessment or implementing child protection plans.

### Confidentiality

Confidentiality issues need to be understood if a child divulges information they are being abused. A child may only feel confident to confide in a member of staff if they feel that the information will not be divulged to anyone else. However, education staff have a professional responsibility to share relevant information about the protection of children with the designated statutory agencies when a child is experiencing child welfare concerns.

It is important that each member of staff deals with this sensitively and explains to the child that they must inform the appropriate people who can help the child, but that they will only tell those who need to know in order to be able to help. They should reassure the child and tell them that their situation will not become common knowledge within the school. Be aware that it may well have taken significant courage on their part to disclose the information and that they may also be experiencing conflicting emotions, involving feelings of guilt, embarrassment, disloyalty (if the

abuser is someone close) and hurt.

Please remember the pastoral responsibility of the education service. Ensure that only those with a professional involvement, e.g. the designated senior person and the head teacher, have access to the child protection records. At all other times they should be kept securely locked and separate from the child's main file.

The designated senior person for child protection in this school is

\_\_\_\_\_

The designated governor for child protection is

\_\_\_\_\_

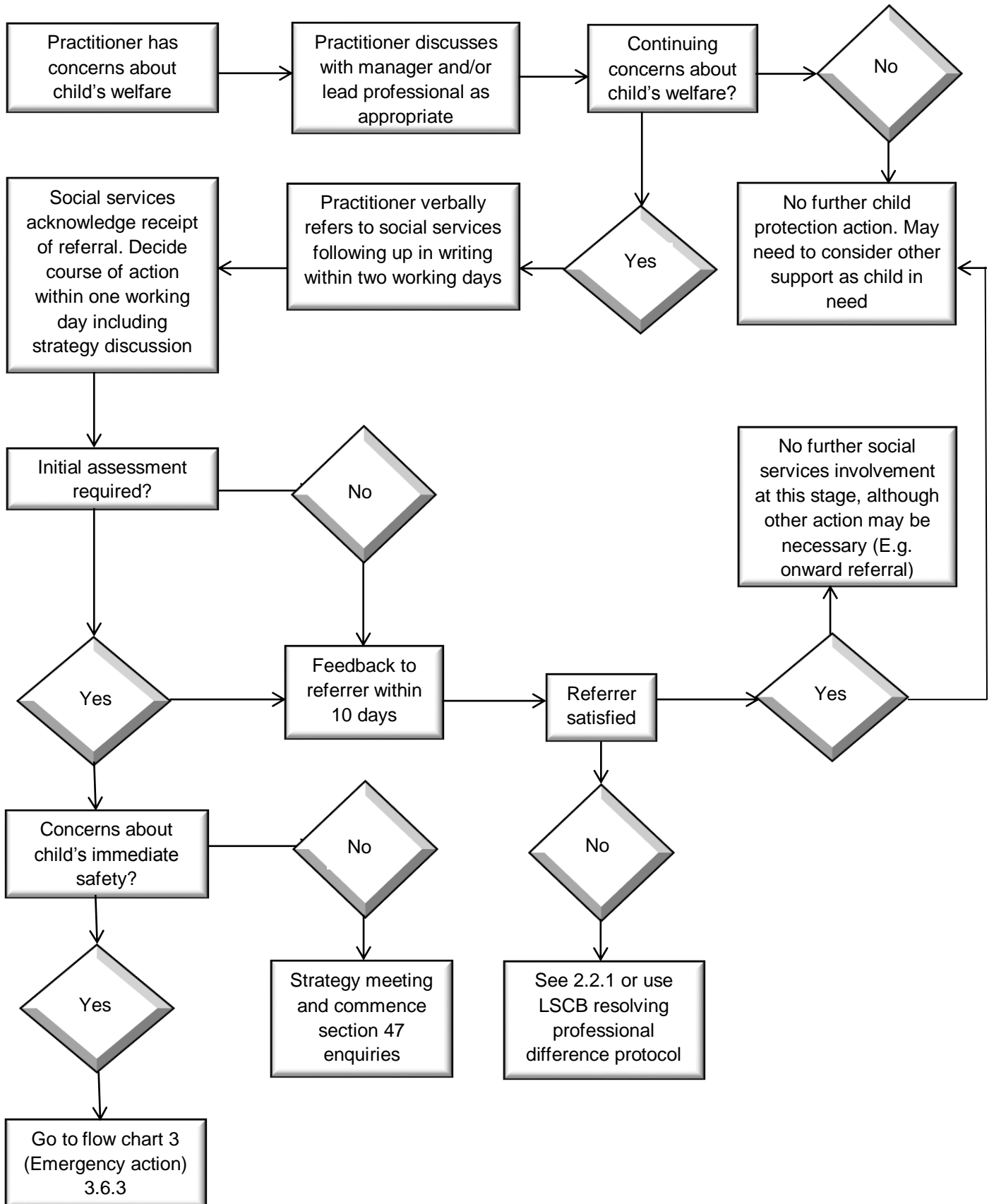
Telephone number \_\_\_\_\_

The local authority designated lead officer for child protection is

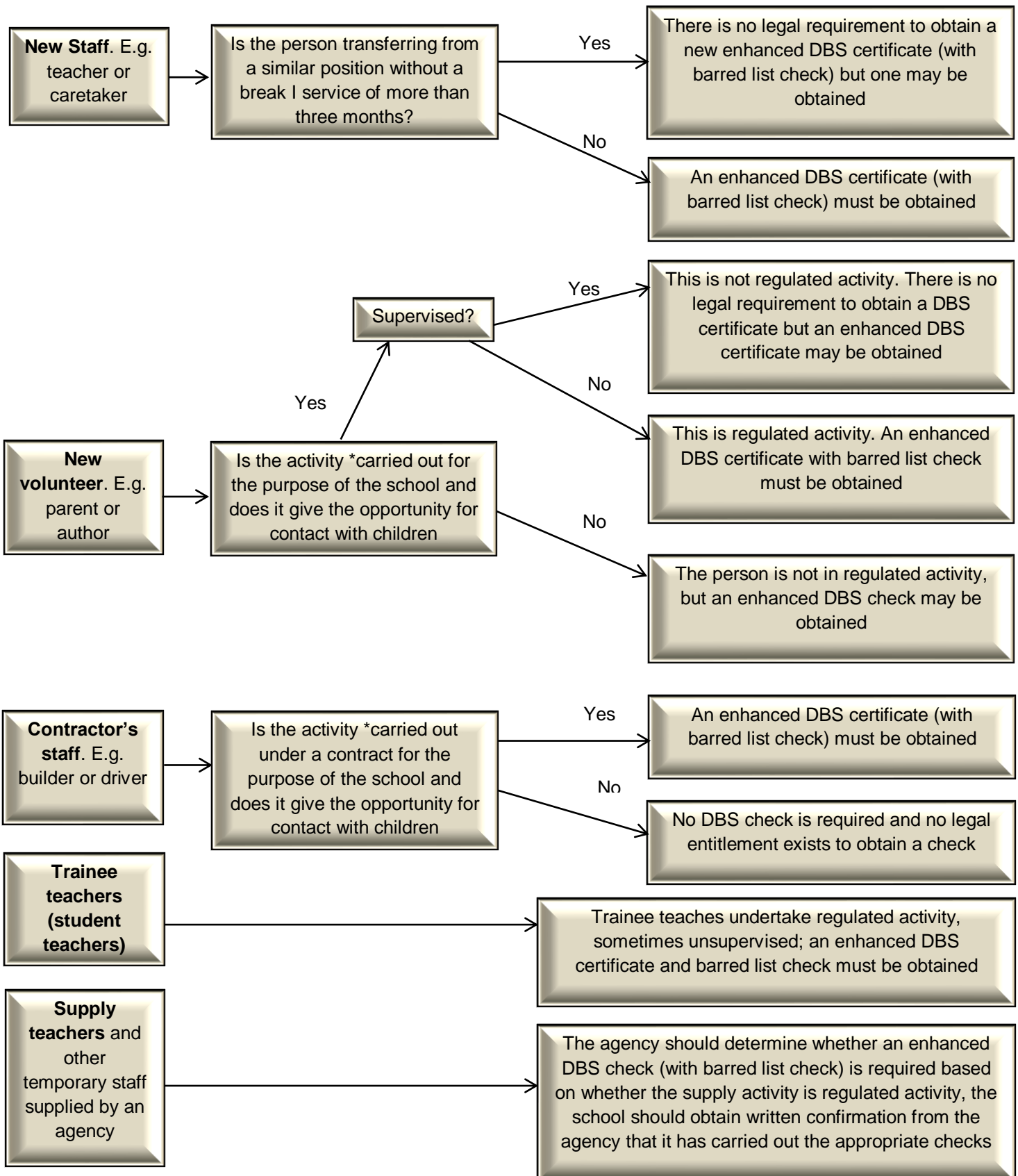
\_\_\_\_\_

Telephone number \_\_\_\_\_

## Appendix 3: All Wales Child Protection Procedures 2008 referral



## Appendix 4: Flowchart of Disclosure and Barring Service criminal record checks and barred list checks





## Appendix 5: Disclosure and Barring checks

| Type of check   | What the check involves   | Position eligible for this level of check   |
|---|---|---|
| Standard check  | Check of the Police National Computer records of convictions, cautions, reprimands and warnings.  | The position being applied for must be covered by an exempted question in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.   |
| Enhanced check  | Check of the Police National Computer records plus other information held by police such as interviews and allegations. This information must be relevant to the sector and be approved by the police for inclusion on the certificate. | The position being applied for must be covered by an excepted question in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and in Part 5 of the Police Act 1997 (Criminal Records) Regulations*      |
| Enhanced criminal record check with children's and/or adult's barred list information | Check of the Police National Computer records plus other information held by the police plus check of the DBS Children's Barred List plus check of the DBS Adult's Barred List  | The position must be eligible for an enhanced level criminal record check as above and be for a purpose listed in Regulation 5 of the Police Act 1997 (Criminal Records) Regulations as able to check the barred list (s) |