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a Hyfforddiant yng Nghymru

Her Majesty's Inspectorate
for Education and Training in Wales

Supplementary guidance for inspecting safeguarding in non-maintained settings

Autumn 2012



The purpose of Estyn is to inspect quality and standards in education and training in Wales. Estyn is responsible for inspecting:

- ▲ nursery schools and settings that are maintained by, or receive funding from, local authorities;
- ▲ primary schools;
- ▲ secondary schools;
- ▲ special schools;
- ▲ pupil referral units;
- ▲ independent schools;
- ▲ further education;
- ▲ adult community learning;
- ▲ local authority education services for children and young people;
- ▲ teacher education and training;
- ▲ work-based learning;
- ▲ careers companies; and
- ▲ offender learning.

Estyn also:

- ▲ provides advice on quality and standards in education and training in Wales to the National Assembly for Wales and others; and
- ▲ makes public good practice based on inspection evidence.

Every possible care has been taken to ensure that the information in this document is accurate at the time of going to press. Any enquiries or comments regarding this document/publication should be addressed to:

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What is the purpose?

This provides further guidance for inspectors to use for reference during inspection alongside the sector guidance for inspection, to support specific lines of enquiry.

For whom is it intended?

For all inspectors of non-maintained settings

From when should the guidance be used?

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Introduction

This supplementary guidance aims to support inspectors as necessary in evaluating settings' safeguarding arrangements when carrying out inspections. It should be used for reference during inspection alongside Estyn's Policy and Procedures for Safeguarding 2011.

This guidance does not deal with how inspectors should deal with allegations about safeguarding received during inspection. Inspectors must be familiar with Estyn's Policy and Procedures for Safeguarding, which covers children, young people and vulnerable adults. All inspectors should be aware of what to do in the event of receiving allegations about safeguarding and actions are outlined in this document. You can find a copy of the document on Estyn's website at:

<http://www.estyn.gov.uk/download/publication/190608.6/estyn-policy-and-procedures-for-safeguarding-2011/>

It is also essential that inspectors take account of Welsh Government Circular 05/2008 'Safeguarding Children in Education and CSSIW's National Minimum Standards'.

The proposals in the Protection of Freedoms Bill currently progressing through Parliament, will eventually affect some of the government requirements referred to in this guidance. Further guidance will be issued once the changes are confirmed, covering in particular the nature of pre-recruitment checks that settings will be required to make in future, as well as setting out the conditions where CRB disclosure certificates will no longer be applicable.

Key telephone numbers

In the event of concerns or queries the following telephone numbers are available:

Estyn's lead officer for safeguarding: 02920 446482 (also available out of office hours)

Estyn's deputy officer for safeguarding: 02920 446484 (also available out of office hours)

Estyn's main office (during office hours): 02920 446446

Definition of safeguarding

All setting settings have a statutory duty to exercise their functions with a view to safeguarding and promoting the welfare of their children.

Safeguarding and promoting the welfare of children is concerned with:

- protecting children from abuse and neglect;
- preventing impairment of their health or development; and
- ensuring that they receive safe and effective care;

so as to enable them to have optimum life chances.

Everyone who works in education 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 these, where appropriate, in partnership with other agencies; and
- 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; and
- contribute to effective partnership working between all those involved with providing services for children and young people.

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.

Safeguarding covers more than the contribution made to child protection in relation to individual children. It also encompasses issues such as **children's health and safety and bullying, about which there are specific statutory requirements, and a range of other issues, for example, risk assessments and meeting the needs of children with a medical condition**. There may also be other safeguarding issues that are specific to the local area or population.

Where there are statutory requirements, settings should already have in place policies and procedures that satisfy those and comply with any guidance issued by the Welsh Government. Similarly, arrangements about matters on which the Welsh Government has issued guidance should be evidenced by policies and procedures that are in accordance with that guidance or achieve the same effect.

Estyn's Common Inspection Framework

Estyn's Common Inspection Framework places high priority on safeguarding and promoting the welfare of learners, and it will always be a line of inquiry.

Reporting on safeguarding

Key Question 1 is concerned with outcomes and it is in two parts. The first is about the standards that children achieve. The second part is about wellbeing and includes:

- 1.2.1 attitudes to keeping healthy and safe;
- 1.2.2 participation and enjoyment in learning, including behaviour and attendance; and
- 1.2.3 community involvement and decision-making.

It is here that inspectors will evaluate and report on the impact of the setting's provision for safeguarding and promoting the welfare of children.

Most of the comments on the setting's provision for safeguarding and promoting welfare will be in Key Question 2, which is about provision, especially in the section of this key question about care, support and guidance (2.3). The care, support and guidance section contains:

- 2.3.1 provision for health and wellbeing, including spiritual, moral, social and cultural development;
- 2.3.2 specialist services, information and guidance;
- 2.3.3 safeguarding arrangements; and
- 2.3.4 additional learning needs.

The aspects of safeguarding and promoting the welfare of children that can be found in 2.3.1 **provision for health and wellbeing, including spiritual, moral, social and cultural development** include:

- child protection;
- health and safety;
- bullying;
- children with medical conditions;
- first aid;
- safety on educational visits;
- internet safety, if applicable;
- issues specific to a local area;
- setting security; and
- the management of children discipline including physical intervention and restraint.

Section 2.3.3 **safeguarding arrangements** concentrates on the effectiveness of the setting's policies and procedures for safeguarding. It includes the consideration of the setting's policy and procedures for child protection. Annex 1 contains guidance for evaluating safeguarding policy and procedures in the form of questions to consider and issues to focus on.

The needs of children with medical conditions will be included in section 2.3.4 **additional learning needs**.

Key Question 3 is about leadership and management. This includes:

- strategic direction and the impact of leadership; and
- management committee or proprietor.

A setting's leaders and managers should be clear about their statutory responsibilities regarding safeguarding and the steps they are taking to develop good practice beyond the statutory minimum. The registered person is accountable for ensuring that the setting has effective policies and procedures in place in accordance with the Welsh Government's guidance, and is monitoring the setting's compliance with this. It is the registered person's responsibility to ensure that safe recruitment checks are carried out in line with statutory requirements. There is further information on this in Annexes 2 and 3.

If the setting does not have effective policies and procedures for safeguarding and promoting the welfare of children, this will influence judgements made about the quality of leadership and management in the setting.

Guidance for inspectors in judging the effectiveness of safeguarding

Pre-inspection evidence

Inspectors will use a wide range of evidence. Before the inspection, in relation to safeguarding and promoting welfare, the lead inspector will consider:

- the setting's self-evaluation report, especially the sections on 1.2 and 2.3;
- discussions with the local authority advisory teacher and CSSIW inspector;
- the previous inspection report, if applicable;
- most recent CSSIW report on the setting;
- the setting's policies for safeguarding and promoting welfare, including the child protection policy;
- observations of, and discussions with, children during the inspection;
- responses to the parents' questionnaires, especially the questions about encouragement to be healthy and take exercise, being safe and receiving the additional support for any particular needs;
- written information from parents or other partners; and
- any complaints Estyn may have received.

Inspectors should take particular account of the setting's context, including information on the:

- the number of children on the child protection register;
- the number of refugees or asylum seekers;
- the number of looked after children; and
- exclusions and transfers of children.

Planning the inspection

Safeguarding will always be a line of inquiry. The reporting inspector will need to allocate time to gather enough evidence to support his/her judgements. They may include questions specific to safeguarding and promoting welfare at meetings with:

- the lead practitioner/Chair of management Committee/proprietor;
- staff;
- parents; and
- children.

Inspectors may also arrange to meet with the designated person with responsibility for child protection if not the lead practitioner.

Inspection activity

Inspection activity may include:

- scrutiny of safeguarding policies and procedures, in particular the policies for child protection, health and safety, bullying and risk assessment on setting trips;
- checking procedures for safe recruitment of staff, including records of CRB and ISA checks;
- checking child protection training records;
- interviewing the Designated Person with responsibility for safeguarding and child protection; and
- considering the setting's procedures to ensure the security of the site and buildings.

It is important for inspectors to establish if **all** staff are aware of the setting's policies and procedures, for example by asking staff in the setting about the setting's child protection procedures.

Annex 1 provides inspectors with guidance in the form of questions to consider and issues to focus on when evaluating the setting's safeguarding policies and procedures.

Judging safeguarding

Inspectors need to consider the range of activities that the setting has in place to ensure the safety of its children. The setting **must** conform with legal requirements as a starting point and they **should** follow any guidance from the Welsh Government and CSSIW.

Performance in this area will not be judged solely on the existence of procedures, but also by their effectiveness in terms of safeguarding children from harm.

The fundamental question is whether inspectors are satisfied that children are safe in the setting. Safeguarding is likely to be a serious cause for concern if there are issues such as:

- staff being unclear about their responsibilities and what they need to do to protect children;
- missing CRB checks and/or incomplete records;
- inadequate arrangements for supervising visitors or volunteers who do not have CRB checks; and
- the setting not dealing with bullying effectively.

Annex 1: Evaluating safeguarding policies and procedures

The registered person is responsible for ensuring that appropriate policies and procedures are in place. The 'Designated Person' for safeguarding and/or child protection ensures that policies and procedures are implemented and effectively complied with.

For a setting to comply with their requirements in respect of safeguarding policies and procedures, there will most likely be several discrete policies and procedures in place (although these could be provided for within one overarching safeguarding policy covering the necessary elements). These policies/policy should cover the following:

- child protection (likely to be a separate policy including information relating to training, CRB checks etc.);
- health and safety;
- first aid;
- trips and visits;
- promoting positive behaviour;
- internet safety, if applicable;
- sun protection;
- leaving and collecting children;
- physical intervention and restraint;
- meeting the needs of children with medical conditions; and
- site security.

Child protection policy

When evaluating the policy, inspectors should consider the following issues, but without limitation.

- Is the policy in writing and is it up-to-date (reviewed at least once annually)?
- Is the policy drafted in accordance with locally agreed inter-agency procedures?
- Is there provision for monitoring of children whose names are on the child protection register in line with what has been agreed in the child protection plan?
- Does it include relevant contact names and telephone numbers of the person/s to whom referrals should be made (the 'Designated Person'), including whom to contact if the allegation relates to the Designated Person?
- Does it clearly state staff responsibilities for reporting suspected child abuse or neglect?
- Does it include the procedures to be followed in the event of an allegation being made by a child about home/another child/an adult etc.?
- Does it include the procedures to be followed if an allegation is made against a member of staff or volunteer?
- Does the policy show that the setting is aware of the Local Safeguarding Children Board (LSCB) and All Wales Child Protection Procedures?
- Is the policy drafted in accordance with relevant local authority and Welsh Government guidance including, but not limited to: Safeguarding Children: Working Together under the Children Act 2004 guidance; and the Welsh Government Circular 05/2008: Safeguarding Children in Education?

- Does it contain guidance on how referrals should be made, the records to be kept and time scales to be met?
- Does it include reference to the support provided for children who have been abused?
- Does the policy link with other relevant safeguarding policies?
- Does the setting make reference to the fact that the setting should support an ethos where children and staff can freely talk about concerns?
- Does the policy state how it will be implemented, monitored and evaluated?

Staff training

- Is there a senior member of staff (the 'Designated Person') who is designated to take the lead responsibility for safeguarding and child protection issues, providing advice and support to other staff and liaising with the LSCB and other child protection agencies (N.B. a deputy should be available to act in the Designated Person's absence)?
- Are all staff aware of who the Designated Person is?
- Has the Designated Person undertaken appropriate training to undertake their responsibilities effectively and is training regularly updated?
- Are all staff and volunteers appropriately trained and kept up-to-date by refresher training?
- Are there suitable arrangements for making new staff (including temporary and volunteer staff) aware of procedures as part of their induction?
- Are all staff able to, and do, put the policy into practice?
- Are all staff aware of safeguarding and child protection issues, including how to identify signs and symptoms of abuse?
- Are all staff aware of their responsibility to report concerns according to LSCB procedures without delay?
- Do new staff sign to show they understand the setting's safeguarding and child protection policies and procedures (good practice only)?
- Do all staff know about the setting's policy about physical intervention and restraint?

N.B., inspectors should check with different categories of staff to confirm they have a clear understanding of what to do when an allegation is made:

- by a child about someone outside the setting e.g. family, family friend;
- by a child about a member of staff; and
- by a child about the lead practitioner, proprietor / chair of management committee etc.

CRB checks and pre-employment checks

- Do all staff and unsupervised volunteers have up-to-date CRB checks?
- Does the setting have secure procedures for pre-employment checks, eg taking up references, verifying identity and any academic or vocational qualifications, seeking a full employment history for prospective staff members (including volunteers) and reserving the right to approach any previous employer; checking with former employers the reason why employment ended, identifying any gaps or inconsistencies and seeking an explanation, checking that a person has the health and physical capacity for the job, carrying out a face to face interview?

National Minimum Standards April 2011 – Standard 13(DC) All relevant checks must be completed before persons start working with children or having unsupervised contact with children.

Parents

- Is the child protection policy shared with parents/carer before a child is admitted?
- Are parents provided with appropriate information about child protection (good practice only)?

Referrals

It is not appropriate to ask for confidential records of referral. However, it is important to check that the correct procedures were followed. While professionals should seek, in general, to discuss any concerns with the family and, where possible, seek their agreement to making referrals to local authority children's social services, **this should only be done where such discussion and agreement-seeking will not place a child at increased risk of significant harm.**

- Are referrals made without delay and in accordance with LSCB procedure? (Where professionals make a referral by telephone to the local authority children's social services, they should confirm the referral in writing within 48 hours.)
- Do they record what action was taken?
- Are records kept secure and confidential and for an appropriate length of time?
- Does the most recent referral meet all the above?

Health and wellbeing

Are there appropriate policies and procedures in place for the following areas:

- health and safety;
- first aid;
- trips and visits;
- promoting positive behaviour;
- Internet safety, if applicable;
- sun protection;
- leaving and collecting children; and
- physical intervention and restraint?

Site security

- Does the setting have adequate security arrangements for the grounds and buildings?
- Are procedures for entry into the building and to the site appropriate and robust?
- How well does the setting manage the arrival and departure of children?

NMS standard 22: Environment – the physical environment is safe, secure and suitable for purpose.

Annex 2: Criminal Record Bureau (CRB) disclosures

CRB checks and pre-employment checks:

The registered person is responsible for ensuring that:

- they are able to demonstrate their suitability and that of other persons having, or likely to have, unsupervised contact with children.

The suitability checks will include:

- a CRB enhanced disclosure check; and
- pre-employment checks eg taking up references, verifying identity and any academic or vocational qualifications, seeking a full employment history for prospective staff members (including volunteers) and reserving the right to approach any previous employer; checking with former employers the reason why employment ended, identifying any gaps or inconsistencies and seeking an explanation, checking that a person has the health and physical capacity for the job, carrying out a face to face interview.

All relevant checks must be completed before persons start working with children or having unsupervised contact with children.

Visiting staff

Staff such as educational psychologists, advisory teachers, students, and inspectors should be CRB checked by their 'providing' organisation, for example the local authority.

It is sufficient for settings to seek written confirmation that appropriate checks, including CRB checks, have been carried out for these people (most commonly on appointment) and by whom (most commonly the relevant human resources department), and to confirm the identity of these visitors. Written confirmation may take the form of a public statement on the providing organisation's website. In most circumstances, checks should be carried out prior to work commencing.

Part-time staff may use the same CRB check for two or more posts as long as they are at a similar level **and** the setting has satisfied themselves about their veracity and appropriateness.

Annex 3: Vetting and Barring Scheme: criminal offences related to new Independent Safeguarding Authority requirements

The following guidance supplements Welsh Government Circular 34/2002: 'Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service'.

The Vetting and Barring Scheme (VBS) was launched in October 2009. The three barring lists, Protection of Children Act (PoCA), the Protection of Vulnerable Adults (POVA) and List 99, were replaced by the creation of two new barred lists administered by the Independent Safeguarding Authority. The mechanism for making a barred list check through Criminal Records Bureau (CRB) remains the same, although it will no longer be possible to check a list without requesting an enhanced CRB check.

The Protection of Freedoms Bill makes proposals to significantly restrict the original proposals of the Safeguarding Vulnerable Groups Act. However, no part of the act that has already been implemented has yet been withdrawn. Since 12 October 2009 it is a criminal offence for employers:

- to take on an individual in Independent Safeguarding Authority regulated activity such as childcare provision whom they know to have been barred from such an activity; and
- not to refer to the Independent Safeguarding Authority details of anyone who is removed from regulated activity or who leaves while under investigation for allegedly causing harm or posing a risk of harm.

In practice this means that employers must refer information to the Independent Safeguarding Authority when they have dismissed an individual or an individual resigns, because they harmed or may harm a child or vulnerable adult.

If, in the course of the normal inspection of safeguarding within any Independent Safeguarding Authority¹ **regulated** provision, an inspector suspects a setting of not complying with either of the above they should bring this to the setting's attention and ask them to take immediate action.

Inspectors should record all the evidence on an evidence form and ensure that enough detail is included on the Reporting JF for that inspection. The reporting inspector should then email a copy of the Reporting JF together with some contextual information to Estyn's safeguarding email address at safeguarding@sharepoint.estyn.gov.uk. Dependent on the circumstances of the case and the action taken by the setting, inspectors should consider whether this information will affect their judgements on safeguarding, the effectiveness of leadership and management and the overall effectiveness of the provision. Inspectors may also wish to consult Estyn's lead officer for safeguarding. Settings and inspectors can obtain further information on referrals at www.isa.gov.uk

¹ www.isa.gov.uk

Under provisions in the Protection of Freedoms Bill, the Government intends that volunteers who are recruited to work with children will not be eligible for CRB or barred list checks unless they work unsupervised with the children. The DfE intends to consult on the definition and nature of supervision that would satisfy the conditions for this exemption. The Government intention is that this should then become a matter for local agreement, informed by published guidance. Inspectors should discuss with settings the risk assessments they carry out when recruiting volunteers to work with children and the nature of supervision arrangements they make if they choose not to request CRB disclosure certificates. Supervision should be by a member of staff who is defined as working in regulated activity, and who has therefore been subject to appropriate recruitment checks.