

Statutory guidance in relation to part 7 (Safeguarding) of the Social Services and Well-being (Wales) Act 2014,

including Adult Protection and Support Orders, the duty to report and enquire, Safeguarding Boards and the National Independent Safeguarding Board

Issued under Sections 131 and 139 of the Social Services and Well-being (Wales) Act 2014

(Short title: *Guidance on Safeguarding*)

Overview

This guidance is intended for local authorities and their relevant partners. Relevant partners are defined by section 162(4) as:

- (a) the local policing body and the chief officer of police for a police area any part of which falls within the area of the local authority;
- (b) any other local authority with which the authority agrees that it would be appropriate to co-operate under this section;
- (c) the Secretary of State to the extent that the Secretary of State is discharging functions under sections 2 and 3 of the Offender Management Act 2007 in relation to Wales;
- (d) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;
- (e) a Local Health Board for an area any part of which falls within the area of the authority;
- (f) an NHS trust providing services in the area of the authority;
- (g) the Welsh Ministers to the extent that they are discharging functions under Part 2 of the Learning and Skills Act 2000;
- (h) such a person, or a person of such description, as regulations may specify.

This document is set out in three chapters:

- Chapter 1 is statutory guidance regarding APSO and the duty to report and enquire issued under section 131
- Chapter 2 is statutory guidance to Safeguarding Board partners issued under section 139
- Chapter 3 is information regarding the National Independent Safeguarding Board and how it works with Welsh Ministers and Safeguarding Boards

1. INTRODUCTION

- 1.1. The Social Services and Well-being (Wales) Act 2014, (the Act), has 11 parts. Part 7 of the Act relates to safeguarding.
- 1.2. Part 7 is intended to be read in the context of the Act as a whole.
- 1.3. Part 1 of the Act provides an overview and some key terms:
 - Section 2 provides the meaning of the term “well-being”.
 - Section 3 defines for the purpose of the Act who is an “adult”, a “child”, a “carer” and who is to be regarded as “disabled”.
 - Section 4 provides the meaning to be given to the term “care and support”.
- 1.4. Part 2 of the Act sets out the overarching duties with which a person exercising functions under the Act must comply.
 - Section 5 provides that any person exercising functions under this Act must seek to promote the well-being of people who need care and support, and carers who need support.
 - Section 6 imposes overarching duties on those exercising functions under this Act in relation to persons who need or may need care and support, carers who need or may need support, or persons in respect of whom functions are exercisable under part 6 of the Act (namely looked after children).
 - Section 7(1) provides that where a person is exercising functions under the Act in relation to an adult who has, or may have, a need for care and support or who is a carer who has, or may have needs, for support, that person must have due regard to the United Nations Principles for Older Persons adopted by the General Assembly of the United Nations on 16 December 1991.
 - Section 7(2) provides that where a person is exercising functions in relation to a child who has or may have needs for care and support or who is a carer who has, or may have, needs for support or who is a “looked after child”, that person must have due regard to Part 1 of the United Nations Conventions on the rights of the child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 (“the convention”).
 - Section 15 requires that local authorities arrange preventative services, including in relation to contributing towards preventing people from suffering abuse or neglect. Codes of Practice in relation to Part 2 also deal generally with preventative services.
- 1.5. The provision in Part 7:
 - Requires local authorities to investigate where they suspect that an adult with care and support needs is at risk of abuse or neglect (section 126);
 - Provides for adult protection and support orders to authorise entry to premises (if necessary by force) for the purpose of enabling an authorised officer to assess whether an adult is at risk of abuse or neglect and, if so what if any action should be taken(section 127);
 - Requires local authorities and their relevant partners to report to the appropriate local authority where they suspect that people may be at risk of abuse or neglect (section 128 and 130);

- Disapplies section 47 of the National Assistance Act 1948 (which enables local authorities to apply for a court order to remove people in need of care and attention from their homes to hospitals and other places)(section 129);
- Establishes a National Independent Safeguarding Board to provide support and advice to ensure the effectiveness of Safeguarding Boards (section 132 and 133);
- Provides for Safeguarding Boards for adults and children and for combining such boards (sections 134 to 141).

1.6 Part 7 provides Welsh Ministers with various regulation making powers to underpin this part of the Act. The relevant regulations made in relation to Part 7 of the Act are:

The Adult Protection and Support Orders (Authorised Officer) (Wales) Regulations 2015;
 The National Independent Safeguarding Board (Wales) Regulations 2015;
 The Safeguarding Boards (General) (Wales) Regulations 2015; The Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015.

These Regulations are reproduced at annexes [] of this Guidance.

- 1.7 This Guidance is given in relation to Part 7 of the Act. Except where stated otherwise it is statutory guidance.
- 1.8 The Guidance given in relation to sections 126-128 and section 130 of the Act is issued under section 131(1) of the Social Services and Well-being (Wales) Act 2014.
- 1.9 The Guidance given to Safeguarding Board Partners in relation to sections 134-138 of the Act is issued under section 139(3) of the Social Services and Well-being (Wales) Act 2014.
- 1.10 Statutory guidance does not have the full force of statute, but Safeguarding Board Partners and other relevant individuals or organisations **MUST** have regard to it with unless local circumstances indicate exceptional reasons justifying a variation.
- 1.11 This Guidance also includes non-statutory guidance which is intended to provide information to assist Safeguarding Boards. Whilst it does not have the force of statutory guidance, it represents good practice.
- 1.12 This Guidance has been drafted to take into account:
- (a) the European Convention of Human Rights, particularly Articles 2,3,5 6 and 8;
 - (b) The United Nations Principles for Older Persons; and
 - (c) The United Nations Convention on the Rights of the Child.
- 1.13 Section 7 of the Act places duties on persons exercising functions under the Act to have due regard to the United Nations Principles for Older Persons and the United Nations Convention on the Rights of the Child.
- 1.14 When exercising function under the Act in relation to adults who need care and support and carers who need support, local authorities **must** have due regard to the United Nations Principles for Older Persons as adopted by the General Assembly of the United Nations on 16th December 1991. The UN Principles for Older Persons can be seen at:
- <http://www.un.org/documents/ga/res/46/a46r091.htm>.

There are 18 principles, grouped into 5 themes: independence, participation, self-fulfillment, care and dignity.

- 1.15 When exercising functions under the Act in relation to children who need care and support and child carers who need support and persons in respect of which functions are carried out under Part 6 (looked after and accommodated children), local authorities **must** have due regard to Part 1 of the United Nations Convention on the Rights of the Child. This duty does not apply to Welsh Ministers as they already have a duty to have due regard to the UNCRC in accordance with the Rights of Children and Young Persons (Wales) Measure 2011. Information about the UNCRC and the Children's Rights Scheme published by the Welsh Government can be accessed at:

<http://wales.gov.uk/topics/childrenyoungpeople/rights/uncrc/?lang=en>

2. GUIDANCE UNDER PART 7 SECTION 131(1) OF THE SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014

2.1 This part of the Guidance relates to the following:

- Section 126, which defines 'adult at risk', imposes a duty on local authorities to make, or cause to be made, such enquiries as it considers necessary to decide whether a person is an adult at risk; and to decide what action, if any, should be taken.
- Section 127 introduces adult protection and support orders (APSO). Regulation may be made under section 127(9) restricting the persons or categories of persons who can act as an 'authorised officer'.
- Section 128 introduces a statutory duty on 'relevant partners' as defined by section 162(4) to inform the local authority of an adult at risk in specified circumstances.
- Section 130 contains a duty on 'relevant partners' and the relevant youth offending team to inform a local authority of a child at risk in specified circumstances.

2.2 Relevant partners are defined by section 162(4) as

- (a) the local policing body and the chief officer of police for a police area any part of which falls within the area of the local authority;
- (b) any other local authority with which the authority agrees that it would be appropriate to co-operate under this section;

- (c) the Secretary of State to the extent that the Secretary of State is discharging functions under sections 2 and 3 of the Offender Management Act 2007 in relation to Wales;
- (d) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;
- (e) a Local Health Board for an area any part of which falls within the area of the authority;
- (f) an NHS trust providing services in the area of the authority;
- (g) the Welsh Ministers to the extent that they are discharging functions under Part 2 of the Learning and Skills Act 2000;
- (h) such a person, or a person of such description, as regulations may specify¹.

2.3 When exercising functions under these sections, this section 131 Guidance must be followed by:

- (a) A local authority;
- (b) A person who is an authorised officer for the purposes of section 127;
- (c) A constable or other specified person accompanying an authorised officer in accordance with an adult protection and support order made under section 127;
- (d) A person who is a relevant partner for the purposes of section 128 or 130.

Human rights

2.4 Practitioners will note the duty on public authorities under section 6 of the Human Rights Act 1998 not to act in a way that is incompatible with rights under the European Convention of Human Rights. Part 7 of the Social Services and Well-being (Wales) Act 2014 engages a number of rights included in the Convention:

Article 2 – right to have life protected;

Article 3 – right not to be subjected to inhuman or degrading Treatment;

Article 5 – right to liberty and security;

Article 6 – right to a fair hearing;

Article 8 – right to respect for private and family life, home, and correspondence.

3. **Adult at risk**

3.1. Section 126(1) defines an adult at risk as being:

An “adult at risk”, for the purposes of this Part, is an adult who—

- (a) is experiencing or is at risk of abuse or neglect,
- (b) has needs for care and support (whether or not the authority is meeting any of those needs), and
- (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

¹ No other persons are currently or proposed to be prescribed.

3.2 This definition of an adult at risk applies in relation to the statutory powers and duties included in Part 7 of the Act and for those purposes replaces the definition of a 'vulnerable adult' included within *In Safe Hands* (Welsh Assembly Government 2000).

3.3 Section 197(1) of the Act provides definitions of 'abuse' and 'neglect':

"abuse" ("*camdriniaeth*", "*cam-drin*") means physical, sexual, psychological, emotional or financial abuse (and includes abuse taking place in any setting, whether in a private dwelling, an institution or any other place), and "financial abuse" ("*camdriniaeth ariannol*") includes—

- having money or other property stolen;
- being defrauded;
- being put under pressure in relation to money or other property;
- having money or other property misused;

"neglect" ("*esgeulustod*") means 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);

3.4 These definitions are familiar to practitioners. When assessing a situation regard should be had to the,

- frailty or vulnerability of the adult at risk;
- extent of abuse or neglect;
- length of time and frequency of the occurrence;
- impact on the individual;
- risk of repeated or escalating acts involving this or other adult at risk.

3.5 The following is a non-exhaustive list of examples for each of the categories of abuse and neglect:

- Physical abuse - hitting, slapping, over or misuse of medication, undue restraint, or inappropriate sanctions;
- Sexual abuse - rape and sexual assault or sexual acts to which the vulnerable adult has not or could not consent and/or was pressured into consenting;
- Psychological abuse - threats of harm or abandonment, humiliation, verbal or racial abuse, isolation or withdrawal from services or supportive networks;
- Neglect - failure to access medical care or services, negligence in the face of risk-taking, failure to give prescribed medication, failure to assist in personal hygiene or the provision of food, shelter, clothing;
- Financial abuse in relation to people who may have needs for care and support -
 - unexpected change to their will.;
 - sudden sale or transfer of the home;
 - unusual activity in a bank account;
 - sudden inclusion of additional names on a bank account;
 - signature does not resemble the person's normal signature;
 - reluctance or anxiety by the person when discussing their financial affairs;
 - giving a substantial gift to a carer or other third party;
 - a sudden interest by a relative or other third party in the welfare of the person;

- bills remaining unpaid;
- complaints that personal property is missing;
- a decline in personal appearance that may indicate that diet and personal requirements are being ignored;
- deliberate isolation from friends and family giving another person total control of their decision-making;

- 3.6 Any of the above forms of abuse could be motivated by the personal characteristics of the victim. This may make it a hate crime. These involve a criminal offence perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person's actual or perceived disability, race, religion and belief, sexual orientation and transgender.
- 3.7 Practitioners must share information in accordance with the Data Protection Act 1998 and the common law duty of confidentiality. Both allow for the sharing of information and should not be automatically used as a reason for not doing so.
- 3.8 The definition of an 'adult at risk' refers to the person experiencing abuse or neglect, or 'at risk' of doing so. The inclusion of 'at risk' enables early intervention to protect an adult at risk. The decision to act does not require actual abuse or neglect to have taken place.
- 3.9 Abuse and neglect often constitute a criminal offence. The following is a non-exhaustive list of the types of criminal offences that may be committed:
- Offences against the person – assault, grievous bodily harm, actual bodily harm;
 - Sexual offences – rape, offences under the Sexual Offences Act 2003 (including sexual activity with a person with a mental disorder impeding choice);
 - Property offences – theft, fraud, criminal damage.

4. Duty of a local authority to make enquiries

- 4.1 Section 126 (2) sets out that:
 'If a local authority has reasonable cause to suspect that a person within its area (whether or not ordinarily resident there) is an adult at risk, it must—
- (a) make (or cause to be made) *whatever enquiries it thinks necessary* to enable it to decide whether any action should be taken (whether under this Act or otherwise) and, if so, what and by whom, and
 - (b) decide whether any such action should be taken'.
- 4.2 There are three separate components:
- a 'reasonable cause to suspect';
 - the making of enquiries; and
 - recording the outcome of the enquiries.
- 4.3 The decision to initiate enquiries should be recorded to identify the point when the duty is engaged and for the purpose of ensuring enquiries are completed in a timely manner.

- 4.4 Enquiries should not be rushed, but timescales should be set. An enquiry should normally be completed within SEVEN working days of the referral. This will not prevent immediate action being taken when necessary to protect an adult at risk. If an enquiry takes longer than seven days, the reasons should be recorded. The local authority should monitor compliance with timescales and the reasons given for exceeding the seven working day timescale. Local authorities will share their data with the Safeguarding Adults Board for the purposes of the Board's responsibility to monitor improvement.
- 4.5 Enquiries embrace a range of activity and are not necessarily identical. The form that the enquiries take is at the local authority's discretion, based on the information and evidence that it has available and the circumstances of the individual case. Local authorities should record in writing why they consider the enquiries they are making, and the form that they are taking, to be necessary. Enquiries are information gathering in nature rather than a formal commissioned investigation as part of the Protection of Vulnerable Adult process. Enquiries may lead up to the strategy meeting stage; they are not the investigative part of the Protection of Vulnerable Adult process. Enquiries do not include formal investigations involving the police although that may be the outcome.
- 4.6 The local authority may make the enquiries itself, or may cause them to be made by another body. The duty to determine the nature of the enquiries required remains with the local authority even though another body is carrying out the enquiries. Relevant partners may be asked to undertake enquiries on behalf of the local authority, and are required to comply with such requests unless to do so is incompatible with their own duties. There may be circumstances where others could assist, for example a third sector organisation supporting the person.
- 4.7 In deciding on the nature of enquiries, the local authority should consider a number of factors:
- the right of the person thought to be an adult at risk to refuse to participate. Refusal to participate does not automatically relieve the local authority of its duty, but may reduce the effectiveness of the enquiry. The enduring nature of the duty will assist in enquiries where coercion or undue influence are present;
 - the wishes and feelings of the adult at risk;
 - the possibility that the adult thought to be at risk is not making decisions freely;
 - whether the adult thought to be at risk has capacity under the Mental Capacity Act 2005 to make decisions relevant to the enquiries and if not, whether an Independent Mental Capacity Advocate should be involved;
 - whether there is a need to involve an advocate under any statutory or voluntary advocacy scheme;
 - the need to carry out the enquiry sensitively and with the minimum distress to the person and others (for example, carers and family members);
 - whether the perpetrator has any needs for care and support;
 - whether the perpetrator is providing care or support for another adult at risk or child who may be at risk;
 - the need for the local authority to work closely with and involve other agencies who may be able to assist with the enquiries and contribute to achieving the identified outcomes of the enquiries;
 - the need to be aware of contaminating any evidence that might be used in any current or future criminal investigation;

- the importance of recognising that any enquiries are proportionate and compatible with the European Convention on Human Rights and the sections 2, 5, 6, and 7 Social Services and Well-being (Wales) Act 2014.

4.8 In broad terms, enquiries should have three phases:

- i. *Screening*: to check general factual accuracy of any referral.
- ii. *Initial evaluation*: This will involve collecting, reviewing and collating information.
- iii. *Determination*: Given the outcome of the screening/initial evaluation what, if anything, should be done? This may include initiating a single or multi agency investigation.

4.9 If it is determined at an early stage that the adult is not an adult at risk, the enquiries should end. However, the person may need to be signposted to other agencies or services if appropriate or may require an assessment under section 19 or 24 of the Act. Section 17 of the Act requires the local authority to provide Information, Advice and Assistance (IAA) services to help all people access relevant, accurate and timely advice and assistance about ways to meet their care and support needs to achieve their personal well-being outcomes. Codes of Practice in relation to Part 2 set out all the requirements on local authorities in relation to an IAA service.

4.10 Relevant partners MUST share information as part of exercising this duty.

4.11 The following information should be included in a report of an enquiry which is likely to be held in the individual case record of the person suspected to be an adult at risk:

- Identities of the individual who identified the concern and the individual who took the decision to initiate the enquiry.
- The identity and relevant details of the person who is the subject of the enquiries.
- A summary of the evidence on which the 'reasonable cause to suspect' was founded.
- The identity of the person or persons and, if relevant, the agency who conducted the enquiries.
- The chronology of the enquiries;
- A list of people who provided information during the enquiries;
- A list of people interviewed during the enquiries;
- A list of documentary evidence reviewed during the enquiries;
- A statement that those making the enquiries consider that the person is or is not an adult at risk. Where the finding is that the adult is not an adult at risk, a statement should be included stating why this conclusion was reached. Consideration should be given to identifying any possible future concerns that may arise and the need for Information, Advice and Assistance;
- A statement on whether an assessment under the Mental Capacity Act 2005 or the Mental Health Act 1983 has been, or should be carried out. If such an assessment has been carried out, the outcome should be included in the record;
- A statement of the findings of the enquiries that led to the conclusion (if that is the case) that the adult is an adult at risk;

A record of any abuse that the person may be experiencing together with any supporting evidence including the following:

- The nature of the abuse;
- The length of time the person has been subjected to abuse;

- The wishes and feelings of the adult at risk;
- The frequency and intensity of the abuse;
- The alleged perpetrator of the abuse and the relationship, if any, to the adult at risk;
- The impact of the abuse on the adult at risk;
- The presence of any other person in the household who may be an adult at risk or a child;
- Whether the alleged perpetrator provides care and support for the adult at risk or for any other known adult at risk. If so, the nature and intensity of such care;
- The nature of any support and assistance the adult at risk may be receiving from a carer or relative other than the alleged perpetrator;
- The identity of any other agencies or third sector organisations who are aware or involved in working with the adult at risk;
- Such other matters as those making the enquiries consider should be included in the care and support plan.

4.12 Section 54 provides that a local authority must prepare and maintain a care and support plan for a person whose needs it is required to meet, this includes an adult identified as being at risk. The conclusions of any enquiries made when an adult is suspected to be an adult at risk **MUST** be recorded in this care and support plan.

4.13 The conclusion should include whether the person is or is not an adult at risk and, what action should be taken and by whom.

4.14 Where an adult at risk has refused a care and support plan the findings of enquiries should be recorded in the individual case record. The record should be accessible. It is important that the record is not lost simply because it is not attached to the care and support plan.

5. Adult protection and support orders (APSO)

5.1 The purposes of an APSO are:

- (a) to enable the authorised officer and any other person accompanying the officer to speak in private with a person suspected of being an adult at risk
- (b) to enable the authorised officer to ascertain whether that person is making decisions freely, and
- (c) to enable the authorised officer properly to assess whether the person is an adult at risk and to make a decision as required by section 126(2) on what, if any, action should be taken.

5.2 Regulations set restrictions on persons or categories of persons who can act as an authorised officer. The restrictions set out in Regulation 3² provides for officers of the local authority where the adult at risk resides to act as an authorised officer. Where this is not practical the restriction applies to appointing an authorised officer from a local authority in the Safeguarding Board area and finally an authorised officer from a local authority in Wales

² Adult Protection and Support Orders (Authorised Officer) (Wales) Regulations 2015

- 5.3 An authorised officer is the person that may apply to a justice of the peace for an APSO. The authorised officer should prepare the information required to be included in the order as set out at section 127(5&6). The role includes liaison with the local authority legal service to make the application to the court and possible attendance to give evidence about the need in particular cases. The APSO allows the authorised officer, a police constable and any other specified person accompanying the authorised officer to enter the premises to implement the order.
- 5.4 An authorised officer requires a complex set of skills and MUST undergo appropriate training (subject to exemption provided by Regulation 3(3)) and be required to keep their skills up to date. It is essential that the authorised officer has a degree of autonomy from his or her employer and is able to perform the functions independently of the day-to-day management of the particular case. Only in very exceptional circumstances should anybody other than a trained authorised officer be eligible to make an application for an APSO and the reasons should be recorded. Following this event the local authority will review the effectiveness of its arrangements in relation to APSO.
- 5.5 The authorised officer should have:
- The ability to assess any risk to the person suspected of being an adult at risk prior to making the application and, if an APSO is made, once it has been executed;
 - A high level of understanding of the context of abuse, abusive situations and neglect;
 - An ability to identify coercive control and its effects on adults at risk;
 - Effective communication skills and the ability to identify any special communication needs that the person suspected of being at risk may have and how their ability to communicate their wishes may be enhanced;
 - An ability to be assertive and exercise control in difficult and challenging situations;
 - An ability and willingness to challenge their own local authority and other agencies when necessary;
 - An awareness of when an advocate is required and how to support the adult to secure an advocate.
 - The ability to prepare and present, with legal assistance, an APSO application clearly and confidently to a justice of the peace;
 - An understanding of the legal framework within which APSOs operate including the implications of the Human Rights Act 1998, Equality Act 2010 and the need to respect diversity;
 - A clear understanding of the provisions of the Mental Capacity Act 2005 in relation to assessments of capacity, best interests assessment and the role of the Independent Mental Capacity Advocate;

Definitions

- 5.6 For the purposes of this statutory guidance:

‘A person is “living” in any premises if he or she resides there for a period of time either permanently or temporarily regardless of whether they have a legal or other interest in the premises.’

- 5.7 ‘Premises’ include

- domestic premises;

- a residential care home or a nursing home;
 - a hospital;
 - any other building, structure, mobile home or caravan in which the person is living.
- 5.8 The assessment must be undertaken in private. Where the premises are large enough for the person to be interviewed without fear of being overheard, fewer problems are encountered. However, in a small flat or house the adult suspected of being at risk may fear speaking frankly. The use of police powers may be necessary in such circumstances for example to require any other occupier to leave the premises for the duration of the assessment interview.
- 5.9 The nature of the powers available to the police officer under statute include,
- Section 17(1)(e) Police and Criminal Evidence Act 1984, and
 - Section 24 Police and Criminal Evidence Act 1984.
 - Common law powers such as arrest for breach of the peace.
- 5.10 The extent of the powers of a constable accompanying the authorised officer goes further than obtaining entry to the premises. The officer may use reasonable force 'in order to fulfil the purposes of an adult protection and support order'. This includes ensuring that it is possible to speak to the person in private.

Making decisions freely

- 5.11 The purposes of the APSO is to ensure that the adult suspected of being at risk is 'making decisions freely'. Practitioners should consider indicators of undue influence including:
- Is the person allegedly exercising undue influence in a position of trust? For example, care home staff, carer or relative.
 - In cases of financial abuse, has the person been offered independent advice?
 - Is the person allegedly exercising undue influence preventing the interview in private from taking place?
 - Is the particular decision the person is taking untypical and out of character based on what the authorised officers and those accompanying him or her know or have been told about them?
- 5.12 Those involved in the execution of the APSO should ensure that they do not exercise undue influence. They should be aware that the adult suspected of being at risk may feel intimidated by the use of statutory powers and the presence of a number of strangers in their home, including a police officer. An advocate may be necessary to ensure that the person is able to challenge the views of practitioners.
- 5.13 It is important to note that the powers of the police under section 127(7) of the Act includes the power to assist in enabling the adult at risk to make decisions freely.

Planning

- 5.14 Good planning is essential for an APSO; preparing an application and in planning the entry and, importantly, the exit. The authorised officer must work in collaboration throughout the process to the extent necessary in the particular case and invite relevant agencies to be involved. Such planning will enable the authorised officer to ensure that other options have been explored, perhaps through the Protection of Vulnerable Adults policy, which may potentially avoid the need to apply for an APSO.
- 5.15 Authorised officers should liaise with the police, as they will be able to assist in identifying potential risk. It is also important to anticipate, as far as is possible, the nature and level of the police involvement in implementing the APSO in any particular case. For example, authorised officers should agree with the police whether it is necessary for the police to be present in the premises, or whether it be sufficient if they were outside of nearby.
- 5.16 Those involved in considering the need for an APSO must discuss the application to ensure that it will lead to a structured implementation, to ensure that the authorised officer has all the relevant information, and that there is adequate consideration of the next steps once the APSO has expired. Those involved may include relevant partners, other agencies or the third sector. However, the authorised officer is responsible for the application and ensuring execution if the order is obtained.
- 5.17 In preparing an application for an APSO regard should be had to the following:
- Everyone involved must understand the purpose of an APSO and their role in the process.
 - Identifying what can the police officer do in the event of non-compliance by the occupier – in particular what common law or statutory powers may be used
 - There must be discussion and agreement on who will do what; this cannot be left until the execution of the APSO. Of course, the agreement may need revising depending upon what is discovered upon obtaining access to the person suspected of being at risk.
- 5.18 Very little may be known about the person suspected of being at risk. The lack of reliable information on the person, coupled with concerns about their safety, may be the reason why an APSO is sought. In preparing an application, an authorised officer should:
- be able to provide evidence that alternative and less interventionist approaches have been considered, but judged insufficient. Given the human rights implications, an APSO must be the last resort and the authorised officer must demonstrate that this is case.
 - should consider drawing up a 'balance sheet' assessing the risks and benefits of applying/not applying for an order. This will assist the authorised officer when considering whether to make the application, and will be of assistance to justices of the peace if an application were made.
- 5.19 Authorised officers do not have to prove to the justice of the peace the need for the APSO beyond all reasonable doubt. The APSO may be sought because there is insufficient information about the adult suspected of being at risk. The responsibilities of the justice of the peace are found in section 127(4).
- 5.20 The justice of the peace may make an APSO if satisfied that:
- (a) The authorised officer has reasonable cause to suspect' that the person is an adult at risk

- (b) It is necessary for the authorised officer to gain access to the person in order properly to assess whether the person is an adult at risk and to make a decision as required by section 126(2) on what, if any, action should be taken
- (c) Making an order is necessary to fulfil the purposes set out in subsection (2) and
- (d) exercising the power of entry conferred will not result in the person being at greater risk of abuse or neglect.'

5.21 The justice of the peace needs to be satisfied as to the matters outlined in the section above. The following points should be noted:

- 'reasonable cause to suspect
- 'necessary' – this requires something more than merely desirable – it should be unavoidable or essential
- 'exercising the power of entrywill not result in the person being at greater risk of abuse or neglect' - It will not be possible in all cases to demonstrate conclusively that this will be the case. The evidence presented must be sufficient to satisfy the justice of the peace.

5.22 The authorised officer will be responsible for developing an exit strategy once the APSO entry has taken place. There is concern that to exit without explaining to the adult suspected of being at risk and the occupier what happens next, may increase the level of risk. All those affected by the APSO must be made aware of the next steps.

5.23 An APSO may include a condition that notice is given to the occupier of the premises and to the person suspected of being an adult at risk. The preparation of the application should address a number of matters:

- What form of 'notice' is required? Does it have to be written notice, or will telephone notice suffice?
- How does the authorised officer assist the justice of the peace assess whether notice would expose the adult suspected of being at risk to further harm? What factors should be considered?
- Consideration should be given to the need to inform other persons affected by the order – for example, where there is shared living within a domestic setting such as supported accommodation.

5.24 More than one order in respect of the same person is not possible, unless circumstances have changed. However, where it is unlikely that one visit will be sufficient the application must include the period for which the order is to be in force to enable more than one visit to be possible under a single APSO.

5.25 The purpose of the APSO is to enable the authorised officer to assess whether the person is an adult at risk and to make a decision on what, if any, action should be taken. The assessment should include consideration of risk, health status, capacity, and the ability of the person to protect his or herself and the level of risk before and after the intervention. The person's own understanding of what is happening and what their wishes are and giving them appropriate weight, bearing in mind the possibility of undue influence should also be included in the assessment.

5.26 APSO's do not give a general power of entry; they are focussed on the specific purposes outlined in section 127 (2). Once those purposes are satisfied, an APSO will lapse and

should be recorded as having done so. The power cannot be continued unreasonably as some kind of deterrent. The use of an APSO is subject to the general principle of proportionality. This applies to the number of visits and the number of people who accompany the authorised officer.

- 5.27 Conditions may be attached as to the time at which the order may be exercised. Other than in a case that requires immediate action, careful consideration should be given to the time of entry, regardless of whether a condition is included. Timing of the entry may be particularly important where an assessment of mental capacity is required.
- 5.28 An APSO may include a condition providing for the authorised officer to be accompanied by another specified person. So far as is possible, such a person or persons are identified as part of the application. Examples of such a person are:
- The key worker (social worker or health care worker);
 - Domiciliary care worker;
 - Advocate (statutory or non-statutory);
 - Family member or close friend;
 - Best interest assessor;
 - General Practitioner;
 - Approved Mental Health Professional under the Mental Health Act 1983;
- 5.29 When seeking to include a condition as to who should accompany the authorised officer, the rationale for their inclusion should be provided in the application.
- 5.30 It may not be possible to identify ahead of time the nature of any expertise or assistance that may be required in assessing the person suspected of being at risk. Often this will only be ascertainable once the first assessment visit has been completed. An appropriate person may accompany the authorised officer on a subsequent visit even though they were not included in a condition under section 127 (6) (b). The reasons for their involvement should be fully recorded.
- 5.31 The anticipated roles of those who accompany the authorised officer will vary. They include:
- Ensuring that any interview with the person suspected of being at risk is conducted fairly;
 - Assisting communication;
 - To provide expert knowledge and experience on specific matters (e.g. mental capacity);
 - To advocate on behalf of the person;
 - To share their existing knowledge of the person;
 - Building rapport with the person.
- 5.31 Authorised officers should consider whether an advocate should accompany them. Authorised officers should record why they consider an advocate should not be used. If an advocate is considered necessary, authorised officers need to be clear what type of advocate is required – Independent Mental Capacity Advocate (IMCA), Independent Mental Health Advocate (IMHA), Independent Domestic Violence Advocate (IDVA) or a non-statutory advocate.
- 5.32 Note that under section 127 (5) (b) an APSO *must* include a provision that a constable *may* accompany the authorised officer. This reflects that although it is included in the order, there is discretion whether or not a constable should accompany the authorised

officer. Those involved in the preparation for the APSO should discuss, based on their knowledge of the situation, whether a constable should be present and record the reason for the decision.

- 5.33 The APSO should include details of measures to minimise the risk of a forced or highly confrontational entry to the premises. The role of the police will depend upon individual circumstances. In some situations, their presence will be in the background, whereas in others they will be central to obtaining access to the person. A key principle is that the police will use the minimum amount of force necessary and that the impact of their presence should contribute to and not compromise achieving the purposes of the APSO.
- 5.34 As noted above, under section 127 (7) the constable's powers under an APSO extend beyond achieving entry and include ensuring that the purposes of an APSO are achieved. The constable may use his or her powers to arrest if they suspect that certain criminal offences have been committed.
- 5.35 Given the sensitive nature of this power it is essential that the authorised officer states clearly to the adult suspected of being at risk and any other occupier of the premises what is happening, and what will happen once the visit is completed. There should be agreement by those involved on the form of words to describe the purpose of the visit and the statutory power under which it is made. Similarly, the occupier of the premises is entitled to information about their right to complain.

6 Duty to report adults at risk

- 6.1 The Act imposes a new duty on relevant partners to report to a local authority if it is suspected that an adult is an adult at risk. The circumstances set out at section 128 in which this duty is engaged are:
- a) If a relevant partner of a local authority has reasonable cause to suspect that a person is an adult at risk and appears to be within the authority's area, it must inform the local authority of that fact.
 - b) If the person that the relevant partner has reasonable cause to suspect is an adult at risk appears to be within the area of a local authority other than one of which it is a relevant partner, it must inform that other local authority.
 - c) If a local authority has reasonable cause to suspect that a person within its area at any time is an adult at risk and is living or proposing to live in the area of another local authority (or a local authority in England), it must inform that other authority.
 - d) For the purpose of this section a relevant partner of a local authority is a person who is a relevant partner of the authority for the purposes of section 162.
- 6.2 A key issue under this section (as with sections 126, 127, 128 and 130) is the meaning of 'reasonable cause to suspect'. The person upon whom the duty is imposed must have 'reasonable cause to suspect'. The following factors should be noted:
- It is unnecessary to establish on a balance of probabilities that a particular fact is established.
 - It is a relatively low standard when compared with 'reasonable cause to believe'.

- It is not the subjective opinion of the decision maker.
- Reasonable suspicion exists when there is information which would satisfy an objective observer that the particular circumstances exist.

6.3 Practitioners should record in writing the evidence they rely on in making the decision, thus providing a structure for decision-making:

- 2 A summary of information upon which the decision is based.
- 3 Why it is the decision maker considers that objectively that action is required.
- 4 A short statement of the potential risks for the adult if nothing is done.

6.4 The duty to make enquiries in section 126 (2) applies whether or not the person is ordinarily resident with the local authority area.

6.5 There should be clearly identifiable points of contact within the local authority and the relevant partners to ensure that a relevant partner can report any concerns to the local authority in line with the duty set out at sections 128. There should be a single point of contact within each of the organisations.

6.6 Local authorities must ensure that the appropriate person(s) acts upon any concerns identified in a report under this section in a timely manner. Such reports will inform the decision whether to make enquiries under section 126(2).

6.7 Relevant partners should make staff in their organisations aware of this new duty to report and the requirement that they report any concerns they have to the appropriate officer who has responsibility for making decisions.

6.8 Local authorities should put in place parallel arrangements to enable reporting from across the local authority.

7. Duty to report children at risk

7.1 There should be clearly identifiable points of contact within the local authority and the relevant partners to ensure that a relevant partner can report any concerns to the local authority in line with the duty set out at sections 130. There should be a single point of contact within each of the organisations. Existing Guidance in relation to children at risk of harm and the powers and duties under the Children Act 1989, in particular the duty under section 47 of that Act must also be considered.

7.2 Under section 130, the definition of relevant partner is extended to include youth offending teams. Relevant partners are set out for ease of reference at paragraph 2.2(d) of this guidance.

7.3 The statutory criteria for the duty to report under section 130 differs from the duty to investigate under section 47 of the Children Act 1989. Section 130 (4) defines a 'child at risk' as:

'In this section, "a child at risk" is a child who—
(a) is experiencing or is at risk of abuse, neglect or other kinds of harm, and

(b) has needs for care and support (whether or not the authority is meeting any of those needs).'

- 7.4 When a child has been reported under section 130, the local authority shall make, or cause to be made, such enquiries as they consider necessary to enable to decide whether they should take any action to safeguard or promote the child's welfare under section 47 of the Children Act 1989.

8 GUIDANCE UNDER PART 7 SECTION 139(3) OF THE SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014

- 8.1 This part of the Guidance relates to the following:

(a) Section 134(1)	Safeguarding Board areas in Wales
(b) Section 134(2)	Safeguarding Board partners
(c) Section 134(3)	Lead partner in relation to children for the area and the lead partner in relation to adults for the area
(c) Section 135	Safeguarding Board functions and procedures
(d) Section 135(4)(c)	Participation in the work of the Boards
(e) Section 136	Annual plans and annual reports
(f) Section 137	Supply of information
(g) Section 138	Funding of Safeguarding Boards

- 8.2 The guidance is intended for Safeguarding Board partners. The guidance will assist each Safeguarding Board Partner to take all reasonable steps to ensure that the Safeguarding Board on which it is represented operates effectively as set out at section 139(4).

- 8.3 Each of the following is a Safeguarding Board partner in relation to Safeguarding Board area:

- a) The local authority for an area, any part of which falls within the Safeguarding Board area;
- b) The chief officer of police for a police area, any part of which falls within the Safeguarding Board area;
- c) The Local Health Board for an area, any part of which falls within the Safeguarding Board area;
- d) An NHS trust providing services in the Safeguarding Board area;
- e) The Secretary of State to the extent that the Secretary of State is discharging functions under section 2 and 3 of the Offender Management Act 2007 in relation to Wales;
- f) Any provider of probation services that is required by arrangements under section 3(2) Offender Management Act 2007 to act as a Safeguarding Board partner in relation to the Safeguarding Board area.

9 Safeguarding Board Areas

- 9.1 Regulations must set out those areas in Wales for which there are to be Safeguarding Boards (“Safeguarding Board areas”).
- 9.2 The Safeguarding Board areas follow the Collaborative Footprint for Public Services in Wales, building on the areas relating to Local Health Boards and Police Authorities.
- 9.3 The areas have been specified in regulation 3(1)³ as:

Safeguarding Board area	Local authority areas
North Wales	Isle of Anglesey County Council
	Gwynedd Council
	Conwy County Borough Council
	Denbighshire County Council
	Flintshire County Council
	Wrexham County Borough Council
Gwent	Blaenau Gwent County Borough Council
	Caerphilly County Borough Council
	Monmouthshire County Council
	Torfaen County Borough Council
	Newport City Council
Cwm Taf	Merthyr Tydfil County Borough Council
	Rhondda Cynon Taf County Borough Council
Western Bay	Bridgend County Borough Council
	Neath Port Talbot County Borough Council
	City and County of Swansea
Mid and West Wales	Powys County Council
	Ceredigion County Council
	Carmarthenshire County Council
	Pembrokeshire County Council
Cardiff and Vale	Cardiff Council
	Vale of Glamorgan Council

10 Safeguarding Board Lead Partner

- 10.1 Regulations 4 (1) & (2)⁴ provide for a Safeguarding Board partner to be the lead partner for each of the Safeguarding Children Boards and for each of Safeguarding Adults Board as shown below:

Safeguarding Board area	Lead Partner
North Wales Safeguarding Children Board	Conwy County Borough Council
North Wales Safeguarding Adults Board	Conwy County Borough Council
Gwent Safeguarding Children Board	Caerphilly County Borough Council
Gwent Safeguarding Adults Board	Caerphilly County Borough

³ The Safeguarding Boards (General) (Wales) Regulations 2015

⁴ The Safeguarding Boards (General) (Wales) Regulations 2015

	Council
Cwm Taf Safeguarding Children Board	Rhondda Cynon Taf County Borough Council
Cwm Taf Safeguarding Adults Board	Rhondda Cynon Taf County Borough Council
Western Bay Safeguarding Children Board	Neath Port Talbot County Borough Council
Western Bay Safeguarding Adults Board	Neath Port Talbot County Borough Council
Mid and West Wales Safeguarding Children Board	Pembrokeshire County Council
Mid and West Wales Safeguarding Adults Board	Carmarthenshire County Council
Cardiff and Vale Safeguarding Children Board	Vale of Glamorgan Council
Cardiff and Vale Safeguarding Adults Board	Cardiff City and County Council

- 10.2 The role of the Lead Partner, whether for children or adults, under section 134 of the Act is to establish the relevant Safeguarding Board.
- 10.3 After the Lead Partner has established a Safeguarding Board, the only continuing function of the Lead Partner is to provide Welsh Ministers with information in connection with the performance of that Board of its functions when required to do so by Welsh Ministers. Section 184(6) of the Act replaces Section 83(3) of the Children Act 1989. The Lead Partner's continuing function as a Safeguarding Board Partner remains.
- 10.4 Under section 139(3) of the Act, a Safeguarding Board partner must exercise its functions in relation to the Safeguarding Board having regard to any guidance given by Welsh Ministers. Lead Partners are Safeguarding Board partners within the meaning of section 139(3) of the Act. Accordingly guidance for Lead Partners is provided under section 139(3) in relation to the exercise of their function under section 184(6) of the Act and replaces the existing power under section 83(3) of the Children Act 1989.
- 10.5 Lead Partners should:
- (i) Within 7 days of receipt of a request for information made by Welsh Ministers under section 184(6), the Lead Partner should communicate that request to the Chair of the Safeguarding Board;
 - (ii) Within 21 days of the request for information being communicated to the Chair of the Safeguarding Board, the Chair shall put that request to the Board; and
 - (iii) Within 28 days thereafter or such time as the Welsh Ministers may specify in their request, the Lead Partner following discussion with the Chair of the Board will on behalf of the Safeguarding Board provide the Welsh Ministers with a response to the request.

10.6 The intention is that a substantive response to the Welsh Ministers will be provided with 56 days of the request under section 184 (6) being made. Where that is not reasonably practicable, the response to the Welsh Ministers should set out in writing the reason why further time is needed to prepare a substantive response and a realistic time by which that substantive reply can be provided.

11 Safeguarding Board functions

Introduction

11.1 This part of the guidance constitutes statutory guidance for section 135 functions and procedures of Safeguarding Boards and the accompanying regulations⁵. It replaces the current statutory guidance on Membership and Functions of Safeguarding Boards (4.1 - 4.27) in *Safeguarding Children: Working Together under the Children Act 2004* (Welsh Assembly Government 2006). It will also replace guidance on Adult Protection Committees in *In Safe Hands: Implementing Adult Protection Procedures in Wales* (Welsh Assembly Government 2000), which was issued under section 7 of the *Local Authority Social Services Act 1970*.

11.2 The objectives of a Safeguarding Children Board are:

- a. to protect children within its area who are experiencing, or are at risk of abuse, neglect or other kinds of harm, and
- b. to prevent children within its area from becoming at risk of abuse, neglect or other kinds of harm.

11.3 The objectives of a Safeguarding Adults Board are:

- a. to protect adults within its area who –
 - i. have needs for care and support (whether or not a local authority is meeting any of those needs), and
 - ii. are experiencing, or are at risk of, abuse or neglect, and
- b. to prevent those adults within its area mentioned in paragraph (a) (i) from becoming at risk of abuse or neglect.

11.4 A Safeguarding Board must have functions relating to its objectives and make provision as to the procedures to be followed.

11.5 There is one set of regulations for the functions and procedures of both Safeguarding Adults Boards and Safeguarding Children Boards. This is in line with the commitment to provide a framework for improving safeguarding arrangements for everyone and that any artificial barriers based on age begin to be broken down. It recognises that Boards will operate, in parallel and the arrangements for the Boards should allow sharing, exchange and joint-working on matters of mutual concern. And this should be supported wherever possible by common functions and procedures.

11.6 The functions concern the *implementation* of the objectives of a Safeguarding Board and identify a Board's core responsibilities. They are expressed so that they apply to all Safeguarding Boards and are relevant, reasonable and achievable. This Guidance provides explanation to support Boards translate these functions into practice.

Functions of a Board

⁵ The Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015

11.7 A Safeguarding Board has the following functions in relation to the implementation of its objectives:

- to contribute to ensuring that national policies and procedures are monitored and remain fit for purpose, by engagement with the National Independent Safeguarding Board and other Safeguarding Boards, and to contribute to developing policies and procedures to co-ordinate what is done by the partners and bodies represented on the Board for the purposes of protecting adults and children and preventing abuse, neglect and other forms of harm to adults and children within the area of the Board;
- to raise awareness throughout the Board's area of the Board's objectives to protect and prevent adults and children from becoming at risk of abuse, neglect and other forms of harm, and to provide information about how this might be achieved;
- to review the efficacy of measures taken by those Safeguarding Board partners and bodies represented on the Board, and by other bodies with safeguarding responsibilities within the area of the Board, either individually or collectively, to implement the objectives of the Board and to make whatever recommendations it sees fit to those bodies in light of such a review;
- to undertake child practice reviews and adult practice reviews, in accordance with regulation 4,
- to undertake audits, reviews and investigations as are required in pursuance of its objectives;
- to monitor the extent to which any recommendations made under paragraph (c) or (d) are being or have been met;
- to review the performance of the Board and its partners and bodies represented on the Board in carrying out its objectives;
- to disseminate information about best practice and learning arising from reviews under paragraph (d) or (e), to share information with Board members, other Safeguarding Boards, the National Independent Safeguarding Board, and children and adults who are or may be affected by the exercise of a Safeguarding Board's functions, and to identify, explore and respond to matters arising that affect the fulfilment of the Board's objectives;
- to facilitate research into protection and prevention of abuse and neglect of children and adults at risk of harm;
- to review the training needs of those practitioners working in the area of the Board in order to identify training activities and to provide and to ensure training is provided on an interagency and individual organisational basis to assist in the protection and prevention of abuse and neglect of children and adults at risk of harm in the area of the Board;

- to co-operate or act jointly with another one or more Boards or other similar bodies in Wales, England, Scotland and Northern Ireland, or other jurisdiction, where the Board considers it will assist it to fulfil its objectives;
- to seek specialist advice or information where the Board considers it relevant to assist it to implement its objectives;
- to respond to any notification to the Board in relation to any of its functions;
- a Safeguarding Board may also engage in any other activity that facilitates or is conducive to the achievement of its objectives.

11.8 The aim in setting out the responsibilities of Safeguarding Boards in regulations is to provide an appropriate set of standards to guide Safeguarding Boards and to ensure consistency of operation of Safeguarding Boards across Wales under the new arrangements in the 2014 Act. The proposed changes mean that Safeguarding Board partners must take account of the functions and procedures of the Board to fulfil their responsibility in section 139(4) to ensure the Board is operating effectively. Functions and Procedures of the Safeguarding Boards are set out at regulation 3⁶

Guidance on the functions of Safeguarding Boards

11.9 The focus for Safeguarding Boards is twofold. It is both the **protection** of children and adults who are in need of care and support from abuse, neglect or other kinds of harm and the **prevention** of children and adults from becoming at risk of abuse, neglect or other kinds of harm. These two objectives should inform the priorities of Safeguarding Boards when they are considering their work programmes and annual plans, and reviewing their performance.

11.10 Keeping children and adults who may have needs for care and support safe is everyone's responsibility. This means feeling safe and being safe with those with whom they live and who support and care for them, as well as being safe in environments outside the home where they may live, travel, play, learn, work or undertake sport, cultural, leisure and other activities. This responsibility lies primarily within the family or with carers and within the wider community. Many organisations have responsibility for safeguarding children and adults through the services they provide directly to them, through the help and support provided to families and carers, or through their work to develop and strengthen communities.

11.11 Within local authority areas there are a number of other joint structures and bodies that have an important contribution to make in safeguarding and promoting the well-being of children and adults, as part of their wider agendas in planning and promoting the delivery of co-ordinated services.

11.13 Safeguarding Boards have a unique role. They have an overall responsibility for challenging relevant agencies in an area so that:

- there are effective measures in place in to protect children and adults who are experiencing harm or who may be at risk of harm as the result of abuse, neglect or other kinds of harm, and

⁶ The Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015

- there is effective inter-agency co-operation in planning and delivering protection services and in sharing information.

11.14 The role of Safeguarding Boards in terms of prevention through the exercise of its functions should include:

- promoting effective multi-agency support,
- anticipating and identifying where there may be individuals affected by this part of the Act and working with service providers to develop earlier identification and preventative services,
- promoting inter-agency approaches to working with community groups and organisations where there may be populations at risk of harm,
- using inter-agency training and dissemination of learning and research to help build a more confident and knowledgeable multi-agency workforce.

11.15 Section 15(1) of the Act sets out the need for a local authority to provide or arrange services which it considers will achieve the purposes of contributing toward preventing people from suffering abuse or neglect. Safeguarding Boards will want to use the learning from the user experience to inform their work and must do this by providing opportunities for those affected to participate in its work as required in section 135 (4)(c).

Contributing to the review and development of policies and procedures

11.16 A Safeguarding Board should ensure that national policies and procedures aimed at keeping children and adults who may have needs for care and support safe from abuse, neglect or other forms of harm remain relevant and fit for purpose. This means that national and local policies should be informed by the experience and knowledge of Safeguarding Board partners and other bodies represented on the Board. If issues about policies and procedures are identified in a Safeguarding Board area, these should be considered by the Board, shared as appropriate with other Safeguarding Boards and communicated to the National Independent Safeguarding Board for discussion and review.

11.17 The Wales Adult Protection Co-ordinators Group and the Wales Child Protection Co-ordinators Group provide valuable forums for exchange and review between Safeguarding Boards and, when relevant, for discussion with the Welsh Government and with the Inspectorates. They make a positive contribution to inter-agency working and to establishing common practices and procedures across Wales. Safeguarding Boards and Board partners should promote such inter-agency co-operation and contribute to the work of these groups and consider the work of any other All-Wales groups or forums that may develop.

11.18 A Safeguarding Board must ensure local protocols are in place which co-ordinate the inter-agency work being undertaken within the area of the Board by Board partners and other bodies represented on the Board and by other bodies with safeguarding responsibilities. These protocols should be kept under review as to their usefulness and effectiveness in informing and guiding individuals and agencies in their contact with the Board, their access to multi-agency protection services within their area, and to monitor how the protocols improve inter-agency service responses and delivery in the area.

Raising awareness of abuse, neglect and harm in a Board's area

- 11.19 A Safeguarding Board should ensure that it develops knowledge and understanding of its objectives and of the nature and scope of abuse, neglect and other kinds of harm in its area. This must be achieved through publicising its own work through the Annual Report and Annual Plan, by engagement and collaboration with other professional and community agencies and by discussions with users and members of the public. Some Safeguarding Boards in co-operation with other organisations are preparing material about types of abuse, the help available and its prevention for wider public information or more targeted populations.
- 11.20 These are important steps in fostering relationships and building mutual trust between a Safeguarding Board and its community, and raising awareness throughout the area of the need to protect and prevent abuse and harm to children and adults who may have needs for care and support. Some Safeguarding Boards have developed a Communication Strategy and Media Protocol as part of a strategic approach under a Communication and Engagement Management Group.

Reviewing effectiveness of local safeguarding measures

- 11.21 A Safeguarding Board should ensure the effectiveness of the measures taken individually or as part of their shared responsibility as a Safeguarding Board partner. It also applies to other bodies in the area not represented on the Board but which have safeguarding responsibilities. This enables a Board to gather data from its Board partners and other bodies about the nature and extent of need, abuse and harm with which they are working. This may include the strategic population needs analysis required under section 14 of the Act. It requires a system for agencies reporting to the Board on the measures they have in place and how they are working, and to be prepared to be challenged. The Board should monitor any recommendations which are made and the impact of any changes agencies may make as a result.
- 11.22 An important part of reviewing effectiveness of safeguarding measures is through the findings of case audits undertaken on an inter-agency basis, as well as through the learning from multi-agency professional forums and child and adult practice reviews. Feedback from local engagement with key stakeholders and community groups can make a valuable contribution to reviewing effectiveness.

Undertaking child and adult practice reviews and other audits, reviews and investigations, and monitoring their recommendations

- 11.23 Achieving improvement in safeguarding policy, systems and practice is a core function of a Safeguarding Board. A Board therefore needs to be focused on learning from the experience of its professionals across the agencies. A Board must establish child and adult practice reviews where they meet the criteria in regulations, as well as audits, case reviews, thematic reviews and investigations, and ensure that they are effectively managed, supported and resourced. The Board is also required to monitor the extent to which any recommendations made by such reviews, audits and investigations are being met and what has changed as a result.
- 11.24 Criteria for Child practice reviews are already set out in secondary legislation, however are included here for reference.

Concise child practice reviews must be undertaken where, within the area of the Board abuse or neglect of a child is known or suspected and the child has –

- Died; or
- Sustained potentially life threatening injury; or
- Sustained serious and permanent impairment of health or development; and

The child was neither on the child protection register nor a looked after child on any date during the 6 months preceding –

- The date of the event referred to above; or
- The date on which a local authority or relevant partner identified that a child has sustained serious and permanent impairment of health and development.

Extended child practice reviews must be undertaken where, within the area of the Board abuse or neglect of a child is know or suspected and the child has –

- Died; or
- Sustained potentially life threatening injury; or
- Sustained serious and permanent impairment of health or development; and

The child was on the child protection register and/or was a looked after child (including a care leaver under the age of 18) on any date during the 6 months preceding –

- The date of the event referred to above; or
- The date on which a local authority or relevant partner identified that a child has sustained serious and permanent impairment of health and development.

11.25 Criteria for Adult practice reviews are introduced through regulations⁷. The Concise adult practice review must be undertaken, within the area of the Board where, in respect of an adult, that adult has not been, on any date during the 6 months preceding the date of the event referred to in sub paragraph (a) a person in respect of whom a local authority has determined to take action to protect from abuse or neglect in accordance with section 32(1)(b)(i) of the Act following an enquiry by a local authority under section 126(2) of the Act.

(a)

- Died; or
- Sustained potentially life threatening injury; or
- Sustained serious and permanent impairment of health or development; and

An extended adult practice review must be undertaken where, within the area of the Board, in respect of an adult, that adult has been, on any date during the 6 months preceding the date of the event referred to in in sub-paragraph (b), a person in respect of whom a local authority has determined to take action to protect from abuse or neglect in accordance with section 32(1)(b)(i) of the Act following an enquiry by a local authority under section 126(2) of the Act.

(b)

- Died; or
- Sustained potentially life threatening injury; or
- Sustained serious and permanent impairment of health or development.

A concise adult practice review must consider the extent to which details about the adult were received by the local authority. This includes the extent that details were received or could have been received from an individual or agency as part of good practice

⁷ The Safeguarding Boards (Functions and Procedures) Wales) Regulations 2015

information sharing or provided from a relevant partner as part of the duty to report under section 128 of the Act.

- 11.26 The Board should receive reports of child and adult practice reviews and provide professional challenge in discussing the findings, as well as identify the strategic and service implications for improving systems and practice, and sign off the final report and action plan. The Board should make reports of child and adult practice reviews publicly available by publishing them on the Board's website. It should then ensure the learning from reviews is used by the Board and the Board partners and other bodies represented on the Board to take effective action and that the outcomes are monitored.
- 11.27 Consideration of reports presented to the Board is an important means of Board members being in touch with the challenge and complexity of child and adult protection work that their professional staff are undertaking. The Board needs to be able to maintain a close oversight and understanding of current practice and to encourage a supportive learning environment throughout organisations and agencies represented on the Board.

Reviewing the performance of the Board in carrying out its responsibilities

- 11.28 Responsibility for a Board's effectiveness lies with a Board on a corporate basis and with each Safeguarding Board partner individually. Safeguarding Boards are required to co-ordinate the activities of each person or body represented on the Board in relation to protecting and preventing abuse, neglect or other kinds of harm to children and adults, and to ensure the effectiveness of those activities. In turn, each Safeguarding Board partner has a responsibility to take all reasonable steps to ensure that the Board on which it is represented is operating effectively.
- 11.29 Some Safeguarding Boards have a Performance and Impact Framework whereby measures (related, for example, to child or adult practice reviews or the development of policies, procedures and practice by the Board or Board partners) can be recorded and analysed for review year-on-year. A Self-Assessment tool developed for Local Safeguarding Children Boards (SAIT) continues to be found a valuable way of evaluating a Board's performance.⁸ The Annual Report and Annual Plan are important means by which a Safeguarding Board is publicly accountable for reviewing its effectiveness.

Disseminating information about best practice and learning

- 11.30 As part of developing a positive culture of learning and development, a Safeguarding Board should ensure that information is widely disseminated within the workforce about best practice and learning arising, reviews, audits and other Board activities. Some Safeguarding Boards use their multi-agency professional forums as one means of doing this. Others have developed a quarterly newsletter for the whole workforce.
- 11.31 A Safeguarding Board also has a responsibility to share learning with other Safeguarding Boards and with the National Independent Safeguarding Board, as appropriate. It has been found that there are some themes emerging from child and adult practice reviews which are common across a number of Boards and benefit from wider discussion. In addition, the Annual Report provides a channel for sharing learning and information with a wider community of interest and more targeted ways may be found for informing children and adults who are or may be affected by the exercise of a Safeguarding Board's functions.

⁸ See J. Horwath and T. Morrison for CSSIW (2009) *Self Assessment and Improvement Tool (SAIT) for LSCBs v.6*

Research into protection and prevention of harm

- 11.32 Understanding the nature and extent of abuse, neglect and other forms of harm and the effectiveness of services to prevent and protect children and adults at risk from harm are fundamental to improving the knowledge base of a Safeguarding Board and ensuring informed decision making. A Safeguarding Board should therefore provide for research and evaluation studies either, in some cases, by undertaking or commissioning small scale studies or by co-operating with and encouraging agencies to co-operate with studies being undertaken locally or nationally. A Safeguarding Board is ideally placed to help generate questions for exploration by researchers and may therefore seek to develop relationships with academic and other policy and research organisations to influence and promote good practice.

Reviewing training needs and ensuring provision of training

- 11.33 A Safeguarding Board should ensure that practitioners in the area of the Board are receiving or have access to the training they need in child and adult protection and the prevention of abuse, neglect or other forms of harm. This does not mean that a Safeguarding Board must provide such training itself although it may choose to provide some specialist or inter-agency training as part of a wider programme of interagency and individual organisational training. It requires a review and analysis of the training needs of practitioners in the area to inform the Board of those needs so that it can monitor the training activities provided, identify the training required and ensure agencies provide it.
- 11.34 The Board's strategy for training in its area should take account of themes and learning arising locally or nationally from audits, child and adult practice reviews, investigations and research findings and should include how these are incorporated into training activities. Some Safeguarding Boards have established a more strategic approach to training and are developing and quality assuring consistent packages of training and branding to assist smaller and voluntary organisations with the training they deliver.

Co-operating with other Boards

- 11.35 Effective collaboration and multi-agency working are pre-requisites to the delivery of a Board's responsibilities. Many of the major issues in protection and prevention are not restricted within the geographical area of a single Board. This will require a Board to work co-operatively or act jointly with one or more Boards in relation to many of its functions with the aim of achieving a more coherent and consistent approach across Wales.
- 11.36 Some activities, including child and adult practice reviews, may involve co-operating or collaborating with other Safeguarding Boards or similar bodies in other countries of the United Kingdom which work under different jurisdictions and different policies and procedures. In these circumstances, great care will be required to ensure clarity about the processes and accountability involved in such joint work.
- 11.37 A Safeguarding Board should address these issues through its Board partners and bodies represented on the Board where an agency is providing services in Wales to citizens from other countries of the United Kingdom who may have experienced abuse or be vulnerable or at risk of harm. The role of the Board and its members is to ensure that service providers are aware of their responsibilities and take into account the different policies and procedures applying in each country, keeping the needs of a child or adult

who has needs for care and support at the centre of assessment, planning, decision making and inter-agency communication.

Seeking specialist advice and information

11.38 It is recognised that a Safeguarding Board may need to seek specialist advice or information in relation to any of its functions to assist it to implement its objectives. This may include seeking legal advice, employing specialist advisers or consultants to enable the Board to take forward its programme of work or deal with particular matters arising, or seeking information in relation to any of its functions. The decision to do so should be agreed by the chair or by the Board as appropriate and the funding consequences agreed.

Responding to any notification to a Board in relation to its functions

11.39 A Safeguarding Board is likely to be in receipt of notifications about matters concerning the responsibilities of the Board, including bringing concerns about the circumstances of individuals living in the area of the Board to its attention. There should be systems for responding promptly to these notifications and, where reasonable and appropriate, providing information about what is being done following receipt of the notification.

Engaging in other activities relevant to a Board's objectives

11.40 It is important for a Safeguarding Board, in pursuing its objectives of protection and prevention of abuse and harm in an area, to be able to respond to circumstances and opportunities that may arise. This may well be as the result of the implementation of the *Social Services and Well-being (Wales) Act 2014*, at the encouragement of the National Independent Safeguarding Board or as a consequence of other policy developments, or because of changes in the external environment. A Safeguarding Board may, therefore, engage in any other activity that it determines would facilitate or be conducive to the achievement of its objectives.

Development of national and regional protection procedures

11.41 Whilst there is no statutory requirement for the establishment of child protection or adult protection forums, the Welsh Government recognises their positive contribution to the development of safeguarding and the fact that they reinforce partnership working. Therefore Safeguarding Boards are encouraged to promote such interagency cooperation and support the future work of the groups:

- The All-Wales Child Protection Procedures Group
- The Wales Adult Protection Coordinators Group

Guidance on the procedures of Safeguarding Boards

Membership of Safeguarding Boards

11.42 Section 134(2) of the 2014 Act prescribes the following as a Safeguarding Board partner:

- the local authority for an area, any part of which falls within the Safeguarding Board area;

- the chief officer of police for a police area, any part of which falls within the Safeguarding Board area;
- a Local Health Board for an area, any part of which falls within the Safeguarding Board area;
- a NHS trust providing services in the Safeguarding Board area;
- the Secretary of State to the extent that the Secretary of State is discharging functions under sections 2 and 3 of the Offender Management Act 2007 in relation to Wales;
- any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a Safeguarding Board partner in relation to the Safeguarding Board area.

11.43 A Safeguarding Board must include a representative of each Safeguarding Board partner mentioned above with a sufficient level of seniority as follows:

- For the local authority, there are a number of key statutory functions that will need to be reflected on both Safeguarding Children Boards and Safeguarding Adult Boards. These include but not exclusively, the functions of the Director of Education, the Director of Housing, and the Director of Social Services, as well as the Head of Service for adult services or the Head of Service for children's services where these duties are not exercised by the Directors identified above. In the absence of the relevant Director, another officer who is accountable to the Director and of sufficient seniority to represent the authority may attend in their place.

As Safeguarding Boards are now configured on a regional basis encompassing a number of different local authorities, those authorities will want to collectively consider and agree suitable mechanisms for ensuring suitable representation of their responsibilities. This should support timely and effective decision making by the Board whilst mitigating against the potential to imbalance the representation of agencies on the Board.

- For the police for any police area any part of which falls within the area of the Board, an officer who;
 - I. Holds at least the rank of Inspector; and
 - II. Whom the chief officer has charged with specific responsibilities in relation to the protection of children and adults;
- For a local health board (LHB) for any area any part of which falls within the area of the Board;
 - I. The LHB's lead officer for children's services and the lead officer for adult services or some other officer directly accountable to him or her who is of sufficient seniority to act as the LHB's representative instead of the lead officer;
 - II. A registered medical practitioner charged with specific responsibilities in relation to the protection of children within the area of the LHB;
 - III. A registered nurse charged with specific responsibilities in relation to the protection of children and the director of nursing in relation to the protection of adults within the area of the LHB.
- For an NHS Trust providing service in the area of the authority, the Trusts lead executive director for safeguarding children and adults or some other officer directly accountable to him or her who is of sufficient seniority to act as the Trust's representative instead of the lead executive director.

- For any provider of probation services that is required by arrangements under section 3(2) of the offender management Act 2007 the chief officer, director, or an individual who is of sufficient seniority to represent the Board instead of the chief officer;

In the proposed regulations, it is not intended to specify any other person or body as a Safeguarding Board partner, as permitted under section 134(6)(b), (7) and (8).

Other Board members

- 11.44 A Safeguarding Board may include representatives of other persons or bodies, if they exercise functions or are engaged in activities in relation to children or adults who may have needs for care and support in the Safeguarding Board area. This would be a matter for decision by the Safeguarding Board. The number of representatives of individual bodies that will sit on a Safeguarding Board is for local determination.
- 11.45 Reciprocal membership is key i.e. a representative from the Safeguarding Adults Board should be a member of the Safeguarding Children Board.
- 11.46 Regulatory bodies and inspectorates are not represented on the Safeguarding Boards however, it is essential that there are clear mechanisms for engagement determined locally in each Safeguarding Board area to ensure effective contribution to the improvement agenda.

Record of Board membership

- 11.47 A Board is expected to maintain a list of those persons who hold a current appointment to represent a Safeguarding Board partner or a body represented on the Board. Attendance at the Board should be monitored. New appointments to a Safeguarding Board should be provided with a statement of the expectations and commitment required of a Board member (in some Safeguarding Boards described as 'a role profile' which has to be signed) and induction into the functions and governance of the Board.

Other organisations or individuals

- 11.48 A Safeguarding Board should make appropriate arrangements at a strategic level to engage with others in its work as needed. For example, there may be some organisations or individuals which are in theory represented by Safeguarding Board partners but which need to be engaged because of their particular role in service provision to children and their families or to adults at risk or because of their role in public protection. This includes the distinct responsibilities of Youth Offending Teams. There will be other organisations with which a Safeguarding Board needs to make links or connections in pursuance of its functions.
- 11.49 Other mechanisms for engagement may be more appropriate. A Board may wish to invite some agencies or individuals to attend Board meetings, sub-groups or working groups as observers or as advisers in their professional capacities. A Board will also wish to set up channels of communication with some individuals or organisations on a regular or periodic basis, as well as fostering engagement through existing networks and forums, or by encouraging the development of suitable networks and forums.
- 11.50 Engagement may take place with relevant organisations and individuals from the Statutory, Independent and third sectors.

11.51 In areas where they have significant local activity, the armed forces (in relation both to the families of service men and women and those personnel that are under the age of 18), the Immigration Service, and the National Asylum Support Service may be included in engagement with the relevant Safeguarding Boards.

Appointment of a Safeguarding Board chair and vice-chair

11.52 A Board must by majority decision appoint one of its members to be its chair. The chair may be a Board partner or from a body represented on the Board and chairing may rotate between the Board partners and bodies represented on the Board. As Safeguarding Children Boards and Safeguarding Adults Boards develop, the appointment of a chair may be a Board partner or from a body represented on the parallel Safeguarding Board in the same area. The appointment may be for a period of up to three years at the end of which, subject to majority decision, it may be renewed for a further period of up to three years.

11.53 A Board must also by majority decision appoint one of its members to be its vice-chair. It may be beneficial to a Safeguarding Board to have a vice-chair from another Board partner or body represented on the Board to that of the chair. The appointment of a vice-chair should also be for up to three years, with the option for renewal for a period of up to three years.

11.54 The role of the chair of a Safeguarding Board is key to ensuring the effectiveness of a Board. Together with the support of the vice-chair, business manager and staff of the business unit, the chair has a major responsibility for developing and reaching consensus for the strategy and annual plan of the Safeguarding Board and driving forward the operational work of the Board.

11.55 The chair has responsibility for fostering relationships of mutual trust and understanding among Board partners and other bodies represented on the Board and gaining their active involvement. The responsibilities of a Safeguarding Board require committed, well-functioning, challenging, inspirational and strongly-led members. The chair is critical to achieving the full and consistent support of Board partners and bodies represented on the Board.

11.56 The chair of a Board also plays an important intermediary role between the Board and chairs of other Safeguarding Boards and external bodies, particularly the National Independent Safeguarding Board, the Welsh Government, other partnerships and forums and the media.

11.57 Job descriptions and person specifications should be drawn up for the appointment of a chair and vice-chair so that the responsibilities and scope of these roles are fully acknowledged. The person specification will include experience of chairing and a wide variety of interpersonal skills in communication, mediation and negotiation, pragmatism, having the confidence and humility to accept criticism, as well as the ability to be decisive, to deal with crises effectively, to challenge board members on actions and outcomes, and to interpret and interrogate information being supplied.

11.58 The Board should maintain a written record of its proceedings to reflect discussion and actions. Therefore any specified views, dissenting views and evidence upon which decisions and actions of the board are made will be documented.

12 Participation in the work of Safeguarding Boards

- 12.1 Section 135(4) (c) indicates that Regulations must specify when and how children or adults who are, or may be, affected by the exercise of a Safeguarding Board's functions must be given the opportunity to participate in the Board's work. Regulation 6⁹ provides that at least once a year Safeguarding Boards must give children or adults the opportunity to participate in one or more events of the boards work.
- 12.2 Engagement will be required to take place each year with sufficient time to enable the Board to report on the outcomes of that engagement to publish its plan before the beginning of each financial year (in order to fulfil the requirement under section 136(1) of the Act).
- 12.3 Safeguarding Boards will consider at each Board meeting the opportunity for user engagement in the specific pieces of work required to be undertaken by the Board. The effectiveness of any participation that has taken place during the period leading up to each Board meeting will likewise be evaluated. The outcome of this activity will be included in the Safeguarding Board's annual report (as required by section 136 (2) of the Act).
- 12.4 Safeguarding Boards must work within the ethos of the theme of Voice and Control which underpins the Act to support people to achieve their personally identified outcomes. The work of Safeguarding Boards will be better informed through engaging directly with those affected, which in turn will assist the Board in its forward planning and performance evaluation.
- 12.5 Opportunities to participate in the Safeguarding Boards work are to be managed by the Safeguarding Boards and should be achieved wherever possible through existing structures and advocate bodies as appropriate.
- 12.6 Safeguarding Boards must ensure participation is as inclusive as possible given the various needs of children, young people and adults. The Safeguarding Board will detail how they plan to offer the opportunity for children and adults to participate in the Boards work through the proposals in their annual plan and will evaluate the effectiveness of their activities through their annual report.
- 12.7 Safeguarding Boards should also consider at each Board meeting the opportunity for and appropriateness of user engagement in the specific pieces of work undertaken by the Board. The effectiveness and impact in terms of outcomes of that participation should be evaluated and included in the Board's annual report.
- 12.8 There is no requirement for children or adults who may have needs for care and support to be members of the Safeguarding Boards. Where a Safeguarding Board decides to offer such an opportunity adaptations to ensure that the Safeguarding Board meeting is fully accessible would need to be made. It may be challenging for the Safeguarding Board to achieve understanding of a wide representation of needs where only one individual attends its Board meeting. Similarly there may be logistical difficulties with participation for both children and adults given the geographical size of the Safeguarding Board areas and the nature of the disabilities of some people. There may be a variety of alternative mechanisms that provide suitable, meaningful and productive opportunities for children and adults to participate in the boards work.
- 12.9 The arrangements and structures that Safeguarding Boards may use to offer opportunities for participation are not prescribed, rather, Safeguarding Boards should

⁹ The Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015

assess the population needs and trends within their Safeguarding Board area to determine opportunities for particular pieces of work. It is recognised that a more targeted approach will provide for the engagement that may be required for specific activities being undertaken by safeguarding boards in the exercise of their functions.

12.10 Safeguarding Boards may wish to consider the existing mechanisms, processes and structures that are already in place in some parts of Wales as part of the determination and design of suitable arrangements for their own Safeguarding Board area:

- County based Junior Safeguarding Children's Boards that exist may continue as presently constituted with a new link established to the regional Safeguarding Children Board;
- Existing County based Junior Safeguarding Children's Boards could merge to become regional Junior Safeguarding Children's Boards which would be formally established by the relevant Safeguarding Children's Boards. Regional Junior Safeguarding Boards could appoint a number of its members (to be determined locally) to meet with key individuals from the Safeguarding Board to jointly consider relevant matters;
- Similar arrangements for Regional Shadow Safeguarding Adults Boards could be established by the Safeguarding Adults Boards. Consideration will need to be given as to how effective representation on the board is achieved;
- One of the Safeguarding Board members could be appointed as an engagement champion, young persons champion or adult user champion to facilitate reciprocal communication between the Board regarding the impact of its work on users and the issues identified by users about which the Safeguarding Board should be made aware;
- School youth forums and school councils are examples of structures that could be utilised;
- Community and Intergenerational projects linked with 50+ forums and Disability rights groups - for example People First - are examples of structures that could be utilised.

12.11 Special attention should be paid to ensure that as wide a representation as possible is achieved considering the significant number of types of disability support groups etc. that will exist in each local area and regionally. The needs of young people who are no longer in full-time education and those who are leaving, or who have recently left the care of the local authority or others who are in transition should be considered.

12.12 The terms of reference, procedures, reporting arrangements etc. of any junior or shadow structures that Safeguarding Boards decide to put in place will be determined locally. However, where possible, arrangements should be shared with the National Independent Safeguarding Board to enable it to share best practice to enable other Safeguarding Boards in Wales to consider any learning relevant to their own Safeguarding Board area.

12.13 The National Independent Safeguarding Board will consider the arrangements made by Safeguarding Boards to ensure that the user's-voice is heard and will, as appropriate, share examples across Wales of where Safeguarding Boards have used successful and innovative mechanisms to give opportunity for user participation in their work.

13 Safeguarding Board annual plans and annual reports

- 13.1 Regulations 5 and 6 ¹⁰ have been made under section 136 (3) of the Act about the making plans and reports by Safeguarding Boards. Those regulations deal with the form and content of the plans and reports as well as the manner in which they are to be published. The Act supplemented by the regulations provides for when and how the annual plans and reports are to be published and prescribes the content of both the annual plans and the annual reports.
- 13.2 The purpose of the annual plans and annual reports is two fold; it is to be a useful tool of accountability and to be a useful tool for evaluation. In this context accountability has three components. They are:-
- accountability to the public;
 - accountability to the statutory agencies from which the Safeguarding Boards partners are drawn; and
 - accountability to the inspectorate bodies.
- 13.3 Publication is a key component in ensuring accountability. The method of publication should include the “traditional” paper form and the use of the internet. As a minimum each Safeguarding Board should publish their annual plans and reports on a website. Once posted on the site, neither the plan nor the report should be taken down. Thus over time a body of work should accumulate which will assist evaluation of the Safeguarding Board’s performance in relation to its statutory objectives under section 135(1) and section 135(2) of the Act.
- 13.4 A copy of each annual plan and annual report should be sent to the National Independent Safeguarding Board no later than 28 days after publication.
- 13.5 Making the annual plans and reports readable increases their accessibility and thus contributes to effective accountability. Whilst the plans and reports need to be comprehensive, they should also be concise and clear. It is not intended that the formulation of the annual report places undue burden upon the Safeguarding Board. The length of the annual plans and annual reports is not prescribed. The aim is that there should be one succinctly drafted annual plan and annual report each year for each Safeguarding Board.
- 13.6 Neither the annual plan nor the annual report should contain executive summaries, anonymised summaries or overviews. The intention is that each annual plan and each annual report should be sufficiently concise and clearly drafted to make such devices unnecessary. The annual plans and annual report should be equally readable by the National Independent Safeguarding Board, the inspectorates and members of the public.
- 13.7 A Safeguarding Board’s annual plan must include the following information —
- (a) a list of the members of the Safeguarding Board;
 - (b) any particular outcomes the Safeguarding Board proposes to achieve;
 - (c) a summary of any improvement the Safeguarding Board proposes to make to enable it better to fulfil its objectives;
 - (d) an estimate of the amount of expenditure the Safeguarding Board is likely to incur in order to achieve its objectives;
 - (e) a description of how the Safeguarding Board proposes to collaborate with other persons or bodies engaged in activities relating to its objectives;
 - (f) when and how the Safeguarding Board will give children and adults who are, or

^{10 10} The Safeguarding Boards (General) Wales) Regulations 2015

may be, affected by the exercise of its functions, the opportunity to participate in its work.

13.8 A Safeguarding Board's annual report must include the following information —

- (a) a list of the members of the Safeguarding Board;
- (b) action the Safeguarding Board has taken to achieve particular outcomes;
- (c) the extent to which the Safeguarding Board has implemented its most recent annual plan, with particulars of how far any specific proposed improvements were implemented;
- (d) how the Safeguarding Board has collaborated with other persons or bodies engaged in activities relating to the board's objectives;
- (e) any requests the Safeguarding Board has made to qualifying persons under section 137(1) for specified information, and whether the requests were complied with;
- (f) achievements the Safeguarding Board made during the year;
- (g) the extent to which each member of the Safeguarding Board contributed to the Board's effectiveness;
- (h) an assessment of how the Safeguarding Board used its resources in exercising its functions or achieving its outcomes;
- (i) any underlying themes in the way the Safeguarding Board exercised its functions, as shown by an analysis of cases it has dealt with, and any changes it has put into practice as a result;
- (j) when and how children or adults exercised an opportunity to participate in the Safeguarding Board's work and how this contributed to the Board achieving its outcomes;
- (k) the number of adult protection and support orders which were applied for in the Safeguarding Board area, how many were made, and how effective they were;
- (l) any information or learning the Safeguarding Board has disseminated, or training it has recommended or provided;
- (m) how the Safeguarding Board has implemented any guidance or advice given by the Welsh Ministers or by the National Board;
- (n) other matters relevant to the work of the Safeguarding Board.

13.8 The annual plans must comply with the requirements of section 136(1) to set out its proposals for achieving its objective for the year. The plan must be published by a Safeguarding Board before the beginning of each financial year.

13.9 The annual reports must comply with the requirements of section 136(2) setting out how it has exercised its functions in the preceding financial year and the extent to which it implemented the proposals in its annual plan for the preceding financial year, the annual report must be published no later than 31 July of each year.

13.10 Evaluation and accountability are assisted by the ability to compare and contrast the work of each Board against:

- the statutory responsibilities and objectives of the Boards;
- the Board's own annual plan for the preceding year;
- the Boards' own annual report and
- the reports of other Boards.

- 13.11 It is important that there is consistency between the content and format of the annual plan and annual report prepared for each year.
- 13.12 The annual plan and annual report must be written in both English and Welsh. There will be a need to translate both the annual plan and the annual report into languages other than English or Welsh, if a reasonable request for such translation is made. Equally there will be a need to translate both the annual plan and the annual report into braille, easy read form etc. if a reasonable request for such translation is received.
- 13.13 Each annual plan and annual report should be drafted with the aim that there should be one plan and one report each year for each Safeguarding Board which is concise and clear. The intention is that the annual plan and the annual report should be accessible documents which fulfil the components of accountability identified above.
- 13.14 The drafting of the annual plan and the annual report is the responsibility of each Safeguarding Board. It is important that each Safeguarding Board partner fully participates in the preparation and publication of both documents.

14 Supply of information requested by Safeguarding Boards

- 14.1 Section 137(1) of the Act provides a Safeguarding Board with the power to request specified information from a qualifying person or body provided that the purpose of the request is to enable or assist the Board to perform its functions under the Act. The Board's functions are defined by section 135 and by the regulations made under section 135(4)(a) of the Act.
- 14.2 Only information which is required to enable or assist the Board to perform its functions under the Act may be requested.
- 14.3 A "qualifying person or body" to whom a request under section 137(1) may be directed is defined as "a person or body whose functions or activities are considered by the Board to be such that the person or body is likely to have information relevant to the exercise of the Board's functions". The person or body to whom the request is made must therefore be "likely" to have information relevant to the Board's functions. The term "likely" in this context is to be interpreted as a "real possibility" that the person or body to whom a request is directed has information relevant to the exercise of the Board's functions. The term "real possibility" holds the balance between speculative requests which go too far and a requirement of too high a standard which may result in no request ever being made.
- 14.4 The information which may be subject to a request is set out in section 137(2) and (3) of the Act. The information may relate to:
- (a) the qualifying person or body to whom the request is made;
 - (b) a function or activity of that qualifying person or body, or
 - (c) a person who is exercising or engaged in a function or activity by that qualifying person or body.
- 14.5 A Board can make a request under Section 137(1) of the Act in relation to information which has been supplied to a qualifying person or body in accordance with another

request made under section 137(1) or in relation to information which is derived from information which has been supplied in response to a request made under section 137(1). One example may be to enable information to pass between Boards. Hence a Safeguarding Children Board in possession of information obtained under section 137(1) to pass that information lawfully to a Safeguarding Adult Board or another Safeguarding Children Board which had made a request for them under this section.

- 14.6 Any information provided to a Safeguarding Board in response to a request must only be used by the Safeguarding Board or other person or body to whom it has been disclosed for the purpose of enabling or assisting the Safeguarding Board to perform its functions under the Act.
- 14.7 A qualifying person or body who receives a request for information under section 137 (1) of the Act must, by reason of section 137(4) of the Act, comply with the request unless that person or body considers that to comply with that request would be (a) incompatible with the duties of that person or body, or (b) otherwise have an adverse effect on the exercise of the functions of that person or body.
- 14.8 A qualifying person or body who decides not to comply with a request to provide information must give the Safeguarding Board written reasons for the decision.
- 14.9 Section 137 is intended to enable a Safeguarding Board to lawfully request and handle information, including personal and sensitive data within the meaning of the Data Protection Act 1998 from those persons or bodies who are “likely” to have information relevant to the exercise of the Board’s functions.

15. Funding of Safeguarding Boards

Introduction

- 15.1 This statutory guidance for section 138 funding of Safeguarding Boards and the accompanying regulations replaces the current statutory guidance on Financing and administration (4.34-4.41) in *Safeguarding Children: Working Together under the Children Act 2004* (Welsh Assembly Government 2006).
- 15.2 Section 138(1) of the *Social Services and Well-being (Wales) Act 2014* provides that a Safeguarding Board may make payments towards expenditure incurred by, or for purposes connected with, the Safeguarding Board on which it is represented by making the payments directly, or by contributing to a fund out of which the payments may be made.
- 15.3 A Safeguarding Board partner may provide staff, goods, services, accommodation or other resources for purposes connecting with the Safeguarding Board on which it is represented.
- 15.4 Regulation⁸¹¹ requires payments to be made by a Safeguarding Board partner towards expenditure incurred by, or for purposes, connected with, the Safeguarding Board on which it is represented, and provide for how the amount of those payments is to be determined in respect of a specified period.
- 15.5 The aim is to secure a consistent contribution for all Safeguarding Boards and to ensure that Boards have adequate and reliable resources to carry out their functions.

¹¹ The Safeguarding Boards (General) (Wales) Regulations 2015

- 15.6 A framework for meeting the core funding of Safeguarding Boards by the Safeguarding Board partners together with a funding formula is included in regulation 8. Budgets are to be agreed to ensure sustainability in taking forward programmes of work and rolled forward until modified to ensure stability and security of funding over more than one financial year
- 15.7 The funding proportions for Safeguarding Board partners in each Board should be as follows:
- local authority 60% (for the local authorities on a Board, there should be a proportionate split based on general population size)
 - Local Health Boards 25%
 - Police 10%
 - Probation 5%
- 15.8 Under section 136, a Safeguarding Board must publish a plan before the beginning of each financial year setting out its proposals for achieving its objectives that year. No later than 31 July of each year, a Safeguarding Board must publish a report on how it has exercised its function in the preceding financial year, and the extent to which it implemented the proposals in its annual plan for the preceding year.
- 15.9 Boards should state how the plan for the financial year will be resourced to meet its intentions and, in its review of the previous year, to include a statement of expenditure on the exercise of its functions and the extent to which funding had been available to implement its proposed plan. The setting of budgets and their review will therefore be transparent and open to scrutiny.

Principles underpinning the funding of Safeguarding Boards

- 15.10 Principles underpinning the development of a regulatory framework for contributory funding of Safeguarding Boards have been identified to ensure commitment by Safeguarding Board partners, embed ownership and to provide accountability:
- *Shared responsibility and accountability* for safeguarding children and adults who may have needs for care and support and for contributing to effective Safeguarding Boards are acknowledged by all relevant local statutory and other bodies within an area.
 - *Fairness* so that contributions, direct and indirect, are perceived as fair by all local agencies within an area.
 - *Contributions* are made by the core Safeguarding Board partners (local authority, health, Probation and Police).
 - *Simplicity* of the formula for funding arrangements to support effective and efficient administration.
 - *Consistency* achieved across Safeguarding Boards in Wales.
 - *Transparency* so that the funding arrangements are open to scrutiny, challenge and accountability.
 - *Budgets are agreed as part of a medium term financial plan which are not subject to annual re-negotiation* to ensure sustainability, taking forward programmes of work, and to allow forward planning.
 - *Funding of core functions are covered in the budget* to ensure that the Boards can demonstrate they have adequate resources to fulfil their core functions.

- *Sufficient flexibility is allowed for development and innovation* so that, as Boards become more experienced in their new collaborations, they can benefit from economies of scale and can extend their programmes of work.
- *Value for money is demonstrated* so that the relationship between investment and effectiveness can be evaluated.

Supporting the core functions of Safeguarding Boards

15.11 The core functions of a Board incorporate an extensive range of activities (see guidance on functions and procedures of Safeguarding Boards at paragraphs 11.9-11.56). These include:

- contributing to developing and monitoring national policies and procedures;
- gathering, analysing, disseminating and communicating information;
- undertaking child or adult practice reviews, thematic reviews, case audits and investigations, and monitoring action taken as a result of recommendations;
- reviewing the performance of the Board in carrying out its objectives;
- reviewing training needs and providing or ensuring the provision of training and staff development;
- co-operating with other Boards and partnerships;
- planning its business programme and producing an annual plan and report;
- ensuring effective communication and accountability, including the maintenance of a Board's website and making available information which may be in paper or electronic format.

15.12 A Safeguarding Board will benefit from an infrastructure of staff working closely with the Board Chair, Vice-Chair, Safeguarding Board partners and other bodies represented on the Board, whose purpose is to:

- drive forward day-to-day business in relation to the Board's core functions;
- provide administrative and organisational support for the work of a Board's sub-groups
- provide administrative and organisational support for activities associated with quality assurance, training and staff development and the learning and reviewing arrangements, including adult and child practice reviews;
- provide support for the review of the Board's performance and for its medium term financial planning.

15.13 As part of its forward planning and medium term financial plan, a Board must be satisfied that it has an adequate level of infrastructure support to carry out the Board's core functions as laid down in regulations. This may usually be achieved by using a dedicated business unit, led by business manager and with dedicated administrative/clerical support. Additionally, according to circumstances, it may also include professional development officers and/or specialist staff, to provide support to the Board to take forward core business.

15.14 Safeguarding Adults Boards and Safeguarding Children Boards may wish to develop their infrastructure with shared administrative staff serving both Boards. There are potential opportunities for economies of scale from the use of joint business units as well as the opportunity for increased collaboration.

The funding framework for Safeguarding Boards

15.15 The key features of the framework for core funding for a Safeguarding Board are in accord with the principles in paragraph 15.10. A Safeguarding Board's partners share responsibility and accountability for the effectiveness of a Board and for ensuring that it is adequately resourced to fulfil its core functions:

- An infrastructure sufficient to support the Board in taking forward its core business and to secure adequate resources to fund its core activities.
- These costs are met by a Safeguarding Board's partners according to the funding formula laid down in regulations.
- A Safeguarding Board's partners may from time to time determine additional contributions required to fund Board functions that are in pursuance of its objectives.
- A Board may wish to consider establishing a contingency fund for pooling other contributions which would be used for non-recurring costs of Board functions.
- Contributions (direct payment or non-pecuniary) from other bodies or persons represented on a Board may be made.
- A Board may seek innovative ways to fund its budget (either wholly or in part), such as by accessing grant funding.
- A Board should agree a budget as part of its medium term financial plan which is then rolled forward until modified to ensure stability and security of funding over more than one financial year.
- A Board will be expected to account for its expenditure and to provide evidence of value for the investment made by Safeguarding Board partners and other bodies represented on a Board through the annual plan and report.
- Safeguarding Children Boards and Safeguarding Adults Boards should consider establishing joint infrastructure support for the Boards' functions.

16. NATIONAL INDEPENDENT SAFEGUARDING BOARD REFERRED TO IN PART 7 SECTION 132 OF THE SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014

Information

16.1 There is no requirement in the Act for Statutory Guidance to be issued with regard to the National Independent Safeguarding Board ('the Board'). This information is provided to advise Safeguarding Board partners about the role of the National Board regarding its role to advise and support Safeguarding Boards and to enable cooperation.

16.2 The National Board's duties are:

- a) To provide support and advice to Safeguarding Boards with a view to ensuring that they are effective.
- b) To report on the adequacy and effectiveness of arrangements to safeguarding children and adults in Wales.
- c) To make recommendations to the Welsh Ministers as to how those arrangements could be improved.

16.3 The National Board is an advisory board that advises Welsh Ministers on safeguarding people in Wales. It works alongside Safeguarding Adults Boards and Safeguarding

Children Boards to secure consistent improvements in safeguarding policy and practice throughout Wales.

- 16.4 The National Board works with others to ensure effective co-ordination of its own programme of work and the work programmes of the Safeguarding Boards and Welsh Government.
- 16.5 Regulations¹² provide for the National Board to establish sub-groups of members only, of one or more members and non members and, of non members only. This allows the chair of the National Board to secure within a subgroup a particular expertise, policy or delivery focus.
- 16.6 The National Board will be supported by Welsh Government secretariat.
- 16.7 The National Board will consider collectively and separately, through its work programme, the effectiveness of the arrangements for safeguarding children and adults in Wales and for securing the voice and participation of service users

Accountability

- 16.8 The Safeguarding Boards are not accountable to the National Independent Safeguarding Board, however they do have a duty to cooperate and share information with the National Board as set out in section 139(1). The National Independent Safeguarding Board and the Safeguarding Boards are equal partners with differing responsibilities. The National Independent Safeguarding Board is accountable to Welsh Ministers.
- 16.9 Safeguarding Boards are accountable as individual Safeguarding Board members through their individual agency role to their organisation and to any relevant organisational inspectorates.
- 16.10 Although the Safeguarding Boards are not accountable to the National Independent Safeguarding Board they must give an account of their activity to the National Independent Safeguarding Board. Section 139(1) of the Act states that a Safeguarding Board must cooperate with the National Independent Safeguarding Board and must supply it with any information it requests. This is crucial if the National Independent Safeguarding Board is going to achieve its objectives.
- 16.11 It is vital that the roles of the National Independent Safeguarding Board, the Safeguarding Boards, Welsh Government and the various relevant inspectorates and regulators are clearly understood.

Membership and responsibilities of the National Independent Safeguarding Board

- 16.12 The Chair of the Board will be appointed by the Welsh Ministers. The National Board has up to five other members. The Board will appoint one of its members as Vice Chair.
- 16.13 Members are appointed for their expertise in safeguarding, protection and related matters and have the experience suitable to undertake the National Independent Safeguarding Board's duties. Members are appointed by Welsh Ministers through a public appointments exercise.

¹² The National Independent Safeguarding Board (Wales) Regulations 2015

- 16.14 Examples of relevant skills and experience may include:
- social care, medical, legal, law enforcement, academic and nursing experience;
 - local authority, National Health Service, independent sector, third sector and community experience; and
 - understanding of the cultural and linguistic diversity of Wales.
- 16.15 The National Board may publish minutes of its meetings and associated reports and will engage with the chairs of the Safeguarding Boards, and relevant inspectorates where appropriate, at least twice each year.
- 16.16 The term of office of Board members is for an initial period of three years following which members are eligible for reappointment for a further three year period. In exceptional circumstances this could be extended for a further year.
- 16.17 National Board members will not normally have dual membership; a member of a Safeguarding Board is not normally a member of the National Board.
- 16.18 Members are responsible for ensuring that the National Board operates within its remit, that decisions made follow procedures, are supported by sufficient high quality information and are robust and defensible. National Board members will stay abreast of evidence and policy approaches to safeguarding and protection in other parts of the UK and beyond in order to learn from those and to evaluate Wales' relative performance. National Board members will exercise independent judgment, reasonable care, skill and diligence in undertaking their duties.
- 16.19 The main responsibility of the members of the National Board will be to ensure that the duties of the National Board are effectively delivered. The National Board will receive information from local Safeguarding Boards, and others to assist it to assure Welsh Ministers that safeguarding and protection are being appropriately led, developed, challenged and promoted in Wales. This may include consideration of:
- multi-agency protection, prevention and safeguarding procedures through the work of the individual Safeguarding Boards and also the Wales wide collaborative child and adult protection groups;
 - the consistency of training provision on safeguarding and protection matters across Wales;
 - the appropriate and consistent policies and procedures used by Safeguarding Boards whose purpose is to protect adults and children and prevent abuse, neglect and other forms of harm to adults and children in Wales;
 - measures taken by Safeguarding Boards in their respective areas across Wales to fulfil their functions as set out at section 135(4) and in relation to their relationship with the National Board at section 139(1);
 - measures taken to collate and share information and best practice, and measures to identify gaps and prioritise responses, focussing on early identification and relevant development;
 - the effectiveness, frequency and consistency of learning from Child Practice Reviews, Adult Practice Reviews and other thematic reviews and investigations across Wales;

- the consistency of the application and implementation of Adult Protection and Support Orders across Wales and their effectiveness in improving safeguarding for adults at risk;
 - measures taken to develop the interface of child and adult safeguarding and protection;
- 16.20 Safeguarding Boards will manage the operational practice in their Safeguarding Board area. The National Board has a role to advise and support Safeguarding Boards however will not intervene in the operational matters of Safeguarding Boards. Where a theme of concern is identified by the National Board or a Safeguarding Board fails to address a theme of concern then the National Board could recommend to the Minister that the matter should be escalated to Welsh Government for exploration or to the relevant inspectorate, depending on the nature of the concern.

Communication and consultation.

- 16.21 The National Board will use mechanisms to regularly engage with a range of expert reference groups, practitioners and individuals. This may include, for example:
- Chairs of the Safeguarding Boards and relevant inspectorates where appropriate.
 - All Wales Child Protection Policy and Procedures Review Group
 - Wales Adult Protection Coordinators Group.
 - Such other groups, including groups in the independent and voluntary sector, who or which exercise functions or are engaged in activities relation to children or adults who may have needs for care and support, may be added at the discretion of the National Board to support its work.
- 16.22 A communication strategy will be used in order to communicate with professionals and the public by sharing good practice and safeguarding information and may from time to time seek views via its website. The National Board will publish its own annual reports including any work it is planning. It will also hold an annual engagement event or events.
- 16.23 The National Board does not have representative attendance. The National Board has a specific duty under section 133(2)(d) to “consult with those who may be affected by arrangements to safeguard adults and children in Wales”. It will use that duty to enhance its understanding of and extend its experience of safeguarding and protection in Wales. This involves consulting with individuals, professionals, professional bodies, inspectorates etc. This could be undertaken in a variety of ways and may, for example, include: a National Board event, a focus group of representatives of those who are affected by safeguarding arrangements, an event facilitated by a Safeguarding Board or similar mechanisms. The National Board will consider the learning from the ‘user engagement’ activities of the Safeguarding Boards gathered through participation, in particular:
- Where children and adult views have been taken into account.
 - Where children and adults have been involved in decision making in an active and direct way.

The National Board Annual Report.

- 16.24 The National Board will make an annual report to the Welsh Ministers by 31 October each year which will include:

- An overview of adequacy and effectiveness of arrangements to safeguard children and adults in Wales.
- Recommendations as to how those arrangements could be improved.
- Themes of support and advice provided to Safeguarding Boards and improvements noted in the practice of Safeguarding Boards across Wales.
- Details regarding how the National Board has consulted with those how may be affected by arrangements to safeguard adults and children in Wales.
- Any comment of significance with regard to the operational practice of the National Board.

16.25 The annual report will contain information about the work undertaken and the outcomes achieved by Safeguarding Children Boards and Safeguarding Adults Boards in relation to measures undertaken including:

- examples of effective measures which Safeguarding Boards have taken to give affected children and adults the opportunity to participate in a Safeguarding Board's work;
- lessons learnt from child practice reviews and adult practice reviews carried out by Safeguarding Boards and from other reviews and investigations;
- examples where learning, information and resources have been shared between Safeguarding Boards within a Safeguarding Board area or between Safeguarding Boards across Wales.

16.26 The intention of publishing the annual report by 31 December each year is to allow time for the Safeguarding Boards to take account of any identified national themes or recommendations that have been made by the National Board whilst preparing their Safeguarding Board annual plans which must be published by the end of each financial year.

ANNEX – Other relevant Guidance, Codes of Practice and Additional Information