



HM Government

# **Changes to statutory guidance: Working Together to Safeguard Children; and new regulations**

**Government consultation**

**Launch date 25 October 2017**

**Respond by 31 December 2017**

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## Introduction

This consultation seeks views on significant revisions to ‘Working Together to Safeguard Children’ – the statutory guidance which sets out what is expected of organisations, individually and jointly, to safeguard and promote the welfare of children. These revisions are being made largely to reflect the legislative changes introduced through the Children and Social Work Act 2017.

In sections one, two and three of this document, the consultation seeks views on the changes to guidance which are needed to support the new system of multi-agency safeguarding arrangements established by the Children and Social Work Act 2017; including views on two sets of statutory instruments (regulations), which are available in Annex A and Annex B. In broad terms, these changes relate to:

- the replacement of Local Children Safeguarding Boards (LCSBs) with local safeguarding partners (section one)
- the establishment of a new national Child Safeguarding Practice Review Panel (section two)
- the transfer of responsibility for child death reviews from Local Safeguarding Children Boards to new Child Death Review Partners (section three)

In section four of this document, the consultation seeks views on the separate guidance we intend to issue in order to facilitate a clear and orderly transition from the existing system.

We have also restructured ‘Working Together’ in a number of areas to improve clarity, although core requirements have not changed. A number of other updates are therefore set out in Annex C for information purposes. However, as minor clarifications we do not intend to consult on these changes.

Following this consultation, the government proposes to update and replace the current statutory guidance, ‘Working Together to Safeguard Children 2015’.

## Who this is for

- Chairs and members of current Local Safeguarding Children Boards
- Local authorities
- Social workers
- Police
- Probation
- Schools
- Practitioners working in the youth justice sector

- Health sector workers
- Parents and Carers
- Children and Young People
- Academics
- Sports organisations and national governing bodies
- The Voluntary and Community Sector
- Any other organisation which has responsibilities and duties to safeguard and promote the welfare of children.

## Issue date

The consultation was issued on 25 October 2017

## Enquiries

If your enquiry is related to the policy content of the consultation, you can contact:

[WorkingTogether2017.consultation@education.gov.uk](mailto:WorkingTogether2017.consultation@education.gov.uk)

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: [consultation.unit@education.gov.uk](mailto:consultation.unit@education.gov.uk) or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

## Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

## The response

The outcome of the consultation and the government's response will be [published on GOV.UK](#) in due course.

# About this consultation

## Children and Social Work Act 2017 - Reforms

Alan Wood's review of the role and functions of Local Safeguarding Children Boards, published in May 2016, found widespread agreement that the current system of local multi-agency child safeguarding arrangements needed to change. He proposed a new model that would ensure collective accountability across local authorities, the police and health. He also recommended a new system of local and national reviews, to replace serious case reviews; and the transfer of responsibility for child death review policy from the Department for Education to the Department of Health.

The review's key recommendations are now included in the Children and Social Work Act 2017 (the Act). The Act received Royal Assent in April 2017, but has not yet been commenced.

### **Children and Social Work Act 2017**

The Act sets out provisions which will:

- replace Local Safeguarding Children Boards with new flexible local safeguarding arrangements led by three safeguarding partners (local authorities, chief officers of police, and clinical commissioning groups), and places a duty on those partners to make arrangements to work together and with any relevant agencies for the purpose of safeguarding and promoting the welfare of children in their area
- require safeguarding partners to identify and arrange for the review of serious child safeguarding cases which they think raise issues of importance in relation to their area
- provide for the establishment of a national Child Safeguarding Practice Review Panel. The Panel will commission and publish reviews of serious child safeguarding cases which it thinks raise issues that are complex or of national importance
- give clinical commissioning groups and local authorities joint responsibility for child death reviews, and enable a wider geographical footprint for these partnerships in order for them to gain a better understanding of the causes of child deaths

Together, these reforms represent a major change to the landscape of local safeguarding. We are therefore proposing significant revisions to the statutory guidance 'Working Together to Safeguard Children'.

There are two draft sets of statutory instruments (regulations<sup>1</sup>) which are essential to support the reforms set out in the Act. Regulations concerning relevant agencies are at Annex A of this document, and regulations concerning national and local reviews are at Annex B. The regulations are subject to Parliamentary approval.

A draft version of the revised guidance has been published alongside this consultation, and the two documents should be read in conjunction, together with the two sets of regulations as appropriate.

The sections of this document relate to those chapters of 'Working Together' which require significant or total amendment:

- Chapter 3: Multi-agency safeguarding arrangements
- Chapter 4: Learning from serious cases
- Chapter 5: Child death reviews

We would like to hear your views on our proposals.

## Respond online

To help us analyse the responses please use the online system wherever possible. Visit [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations) to submit your response.

## Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request a word document version of the form and email it.

### By email

- [WorkingTogether2017.consultation@education.gov.uk](mailto:WorkingTogether2017.consultation@education.gov.uk)

## Deadline

The consultation closes on 31 December 2017

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<sup>1</sup> Primary legislation (known as 'Acts') set out a legislative framework. Secondary legislation (known as 'statutory instruments' or 'regulations') provide detail which underpins the primary framework.

# 1. Revisions to Chapter Three: Multi-agency safeguarding arrangements; and new regulations on relevant agencies

## Background

1.1 The Children and Social Work Act 2017 (the Act) replaces Local Safeguarding Children Boards with new local safeguarding arrangements, led by three **safeguarding partners** (local authorities, chief officers of police, and clinical commissioning groups). The Act places a duty on those partners to make arrangements for themselves and **relevant agencies** they deem appropriate, to work together for the purpose of safeguarding and promoting the welfare of children in their area.

### Safeguarding partners and relevant agencies

- the **safeguarding partners** were identified by the Wood Review as the key strategic local agencies, without whom the overarching decisions necessary to safeguard children within a local area would not be effectively taken. A widening of statutory responsibility from the local authority - to include police and health as joint and equal partners - recognises that society's perspective on safeguarding issues is developing; from the traditional understanding of interfamilial abuse to a more complex spectrum which involves issues including radicalisation, internet safety and public health
- **relevant agencies** is a term for all bodies and groups whose functions within a local area play a crucial role in coordinating the safeguarding and welfare of children<sup>2</sup>. A full list of relevant agencies will be published in the 'Local Safeguarding Partner (Relevant Agencies) (England) Regulations', a draft of which is available at **Annex A**. The list includes all agencies which currently comprise the statutory membership of Local Safeguarding Children Boards - there will therefore (at a minimum) be no reduction in potential agency coverage for safeguarding partnerships

1.2 Safeguarding partners will have the flexibility to determine:

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<sup>2</sup> N.B. While many organisations have important operational parts to play in child safeguarding (for example, GPs or dentists in the health sector), a 'relevant agency' holds a position specific to the coordination or oversight of safeguarding issues across a local area.



- the geographical **boundaries** for the arrangements in their area (which may include two or more local authority areas)
- which **relevant agencies** they should work with and how **safeguarding arrangements** should work in their area
- what arrangements to establish to provide for **independent scrutiny** of their work
- the best way to secure appropriate and sustainable **funding** for their arrangements

## Safeguarding Arrangements

- safeguarding partners will be able to organise themselves in the most efficient way for their area - for example by merging two or more local authority **boundaries**, or multiple partners within the same area (such as clinical commissioning groups CCGs) delegating functions to one another. This will enable the join-up of services and representation
- instead of the 'one size fits all' approach to LSCB membership, safeguarding partners will make arrangements for themselves and the **relevant agencies** who have a key role to play in their area. Those agencies which are listed in regulations have functions in relation to children, and which are selected by the partners will have a duty to cooperate with the arrangements for their area
- decisions on how **safeguarding arrangements** will be organised will not be determined by a set template. The safeguarding partners will be responsible for determining bespoke arrangements which best suit their local area, and publishing them
- the Act requires the safeguarding partners to arrange for the **independent scrutiny** of how effective their arrangements have been. How this should be achieved is a matter which the safeguarding partners have the flexibility to decide on
- the Wood Review identified variance in levels of **funding** as a problem across the LSCB system. All three safeguarding partners must agree the funding plans for their arrangements

1.3 Safeguarding partners must also arrange for the **review of serious child safeguarding cases** which raise issues of importance in relation to their area, and will have the **power to require information** from persons or bodies who may have it; where the information is necessary to enable or assist with the performance of their arrangements, or in conducting reviews.

1.4 Safeguarding partners must publish a **report** at least once in every twelve month period which details what they have done as a result of their published arrangements, and how effective those arrangements have been in responding to the needs of children in their area.

## Proposed Revised Text

1.5 Please see pages 78-84 of the attached draft statutory guidance, 'Working Together to Safeguard Children 2018'; and the draft relevant agency regulations at Annex A.

## Questions

### Leadership

1. As set out in paragraph 4-7 of Chapter 3 of the draft 'Working Together to Safeguard Children' 2018 it will be the responsibility of the safeguarding partners' representatives to determine how they work together in respect of their arrangements. All three partners have equal and joint responsibility for local safeguarding arrangements, and each safeguarding partner will appoint their own representative. We do not propose to set out in statutory guidance who these representatives should be, as it is a matter for safeguarding partners. **Do you agree with this approach? If not, please explain why.**

### Relevant Agencies

2. Safeguarding partners can choose specific agencies which they believe to be relevant to the work of safeguarding and promoting the welfare of children in their area. The 'Local Safeguarding Partner (Relevant Agencies) (England) Regulations' details the specific agencies which safeguarding partners can choose from (a draft is provided at Annex A of this document). It is important to note that certain key agencies are not listed, as their functions are commissioned or otherwise overseen by one or more of the safeguarding partners - for example, general practitioners (GPs) come under NHS England, and housing under the local authority. **Do you agree with this indicative list? If not, please explain why and if you believe any agencies should be added or removed.**

### Schools and other educational partners

3. All schools (including maintained schools, special schools, independent schools, academies and free schools) have key duties in relation to safeguarding children and promoting their welfare. As set out in paragraphs 18-19 of Chapter 3 of the draft 'Working Together to Safeguard Children' 2018 we expect all local safeguarding arrangements to contain explicit reference to how the safeguarding partners plan to

involve, and give a voice to, all local schools and academies in their work. **Do you agree that this expectation should be stipulated in statutory guidance? Please explain your answer.**

### Independent Scrutiny

4. The safeguarding partners must include arrangements for scrutiny by an independent person of the effectiveness of safeguarding arrangements, and how best to implement a robust system of independent scrutiny will be a local decision. Paragraph 20 of Chapter 3 of the draft 'Working Together to Safeguard Children' 2018 states that safeguarding partners should involve a person or persons who are independent, for example by virtue of being from outside the local area or having no prior involvement with local agencies. **Do you agree with this? If not, please explain why.**

### Funding

5. Paragraph 24 of Chapter 3 of the draft 'Working Together to Safeguard Children' 2018 makes it clear that safeguarding partners should agree the level of funding secured from each partner and relevant agency, to support the new safeguarding arrangements. Decisions on funding are for local determination, but contributions should be equitable and proportionate to meet local needs. **Do you agree that this is the right approach? If not, please explain why.**

### Reporting

6. Safeguarding partners must publish a report at least once in every 12 months, setting out what they (and their relevant agencies) have done as a result of the arrangements, and how effective the arrangements have been. These reports will be a key element of local accountability and self-assessment. At paragraph 29 of Chapter 3 of the draft 'Working Together to Safeguard Children' 2018 we have set out a non-exhaustive list of parameters for these reports in guidance, to ensure a nationally consistent set of useful and high quality publications. **Do you agree with this approach? If not, please explain why.**

### Threshold document

7. The safeguarding partners should consider carefully how multi-agency safeguarding arrangements will work in their area. This includes determining how best to ensure that clear criteria for taking action are made available to relevant agencies and others in a transparent, accessible and well-understood way. Currently, Local Safeguarding Children Boards are required to produce a threshold document. We are not proposing to specify in statutory guidance how, and in what format, the safeguarding partners should make their criteria for action available. **Do you agree with this approach? If not, please explain why.**

## 2. Revisions to Chapter Four: Learning from serious cases; and new regulations on local and national reviews

### Background

2.1 Together, the provisions of the Act, the 'review' regulations, and the revised Chapter 4 of 'Working Together' set out arrangements for a new system of local and national child safeguarding practice reviews, which will replace serious case reviews.

#### Legislation and guidance

- the Act provides that the purpose of **local child safeguarding practice reviews** is to identify any improvements that should be made locally to safeguard and promote the welfare of children. Safeguarding partners (see revisions to Chapter 3, above) will be responsible for identifying serious child safeguarding cases which raise issues of importance in relation to their area, and commissioning reviews of those cases where they consider it appropriate to do so
- the Act also provides for the establishment of a **national Child Safeguarding Practice Review Panel**, with responsibility for identifying and commissioning national child safeguarding practice reviews. The Panel will receive notification of all child safeguarding cases where a child has died or is seriously harmed, as well as copies of all completed local reviews. Using this data as well as other available evidence, the Panel will be responsible for identifying improvements which should be made locally or nationally to safeguard and promote the welfare of children
- the 'National and Local Child Safeguarding Practice Review (England) Regulations' set out proposed provisions covering criteria for national and local reviews, and on reviewers and reports. A draft is available at **Annex B**
- chapter 4 of 'Working Together' sets out proposed guidance for safeguarding partners and for the Panel on local and national reviews respectively. It also covers notification arrangements for local authorities

2.2 The regulations and 'Working Together' set out how the new arrangements will work in practice. In particular they seek to set out the relationship between the new Panel and the safeguarding partners, and how this works practically.

2.3 The changes are also intended to improve the quality of reviewers. It will be for the Panel to appoint reviewers for national reviews, and for the safeguarding partners to

appoint reviewers for local reviews - taking account of the factors set out in 'Working Together'.

2.4 The Panel and the safeguarding partners are responsible under the Act for the progress and quality of reviews and the provision of reports. The Secretary of State will be formally responsible for contracts with reviewers. More details on what is expected is set out in the draft regulations, and this chapter of 'Working Together'.

## Proposed Revised Text

2.5 Please see pages 85-97 of the attached draft statutory guidance, 'Working Together to Safeguard Children 2018'; and the draft national and local reviews regulations at Annex B.

## Questions

8. Paragraphs 15-17 of Chapter 4 of the draft 'Working Together to Safeguard Children' 2018 set out the actions the safeguarding partners should take on receipt of a notification of a child safeguarding incident, and the relationship between the safeguarding partners and Panel from then on. **Do you agree with the procedure as set out? If not, please explain why.**
9. The Act makes clear that the Panel and safeguarding partners respectively have responsibility to determine whether a review is appropriate, on the basis of whether the review may identify improvements that should be made to safeguard and promote the welfare of children. Regulations may require the Panel and safeguarding partners to take certain matters into account when taking the decision on cases to review, and guidance may support this. Regulation 4 sets out national review criteria which the Panel would be required to take into account when deciding whether to commission a national review. Regulation 18 sets out local review criteria which safeguarding partners would be required to take into account when deciding whether to commission a local review. Paragraphs 20 and 37 of Chapter 4 of 'Working Together to Safeguard Children' 2018 set out additional circumstances for consideration. **Do you agree with these criteria and circumstances? If not, please explain why.**
10. Paragraphs 23-24 and 41-42 of Chapter 4 of the draft 'Working Together to Safeguard Children' 2018 set out the factors which the safeguarding partners and the Panel respectively should consider when commissioning reviewers for local and national reviews. **Do you agree with these factors? If not, please explain why.**
11. Paragraphs 25-28 and 43-46 of Chapter 4 of the draft 'Working Together to Safeguard Children' 2018 set out the procedures which the safeguarding partners

and the Panel respectively should follow when supervising local and national reviews. Regulations 12-14 add requirements regarding the Panel's supervisory powers.

We do not propose to include further details in the regulations relating to procedures for reviews. **Do you agree with these proposals? If not, please explain why.**

**12.** Paragraphs 30-33 and 48-52 of Chapter 4 of the draft 'Working Together to Safeguard Children' 2018 set out the expectations for the final report which the safeguarding partners and the Panel respectively should follow. These paragraphs also cover timescales for publication and arrangements for submitting final reports. **Do you agree with these expectations and timescales? If not, please explain why.**

**13.** The Act allows the Secretary of State to make regulations to set up a list of reviewers, from which safeguarding partners could be required to select reviewers for local reviews. To maintain maximum flexibility in the system, we do not propose to set up such a statutory list at this time. **Do you agree with this approach? If not, please explain why.**

**14.** Do you have any comments on the content of the regulations at Annex B which you have not already covered above? **If so, please provide details below.**

## 3. Revisions to Chapter Five: Child death reviews

### Background

3.1 With evidence suggesting that over 80% of child deaths have medical or public health causation (and only around 4% occurring in relation to safeguarding issues), the government accepted Alan Wood's recommendation that child death analysis, and policy, should be overseen from primarily a clinical perspective.

3.2 The Act establishes the role of **child death review partners**. Within the parameters set by the Act, partners will have the flexibility to combine the geographical footprint of their arrangements; which will accommodate the need for child deaths to be reviewed over a population size of a sufficient number to allow for analysis of patterns, themes and trends of death.

#### Child death review partners

- **child death review partners** (the local authority and all or part of any clinical commissioning group which falls within the local authority area) will assume responsibility for reviewing and analysing the circumstances of death of any child normally resident in their area. At their discretion, they may also decide to review the death of a child not ordinarily resident in their area
- the child death review partners must prepare and publish a **report** at self-determined intervals, describing what they have done as a result of their arrangements and how effective the arrangements have been in practice

3.3 At a national level, the ownership of government policy for child death and related issues will be transferred from the Department for Education to the Department of Health.

3.4 'Working Together to Safeguard Children 2018' will set out high-level principles and requirements for child death reviews. It will also direct readers to a separate set of comprehensive guidance, (the Child Death Review Statutory Guidance) which will set out the detailed processes to be followed when responding to, investigating, and reviewing a child's death.

3.5 The Child Death Review Statutory Guidance has been developed in partnership with a wide range of practitioners involved in the child death review process, and with bereaved parents. On the basis of what we have heard, we are proposing some changes to the processes involved in child death reviews. In this consultation, we are inviting your views on any aspect of the draft guidance.

## Proposed Revised Text

3.4 Please see pages 98-107 of the attached statutory guidance, 'Working Together to Safeguard Children 2018'; as well as the Child Death Review Statutory Guidance.

## Questions

15. In reviewing the circumstances around the death of a child, the overarching aim is to prevent future child deaths. We have heard from stakeholders that the term "preventable" has posed a hindrance to learning. Instead of asking about preventability, we propose that the child death review process should consider and identify "modifiable factors". That is, contributory factors to a death, that could be modified to reduce the risk of future child deaths. **Do you agree with this approach? If not, please explain why.**
16. We have heard from stakeholders that the distinction between 'expected' and 'unexpected' child deaths can lead to confusion (partly because it may depend from whose viewpoint the question is being considered). We propose a new approach, which allows each individual death to be responded to appropriately, rather than determining whether or not a death meets certain criteria for investigation. This is about working differently, and changing the initial stages of the process. It does not imply an additional burden. **Do you agree with this approach? If not, please explain why.**
17. The Wood Review recommended that the area covered by child death reviews should cover 'a population size that gives a sufficient number of deaths to be analysed for patterns, themes and trends of death'. The new legislation gives the child death review partners flexibility to agree that two or more local authority areas may work together as a single area. We are proposing that the geographical 'footprint' of the arrangements should be locally agreed, based on patient flows across existing networks of NHS care. Child death review partners should come together to develop clear plans outlining the administrative and logistical processes for their new arrangements. Child death review 'footprints' should typically cover a child population such that they review 80-120 child deaths each year **Do you agree with these proposals? If not, please explain why.**
18. We propose that families should be assigned a "key worker" to act as a single point of contact who they can turn to for information on the child death review process, and who can signpost them to sources of support. This is already best practice and should not imply an additional burden.
- More information on the role of the key worker is available in Chapter 6.5.1 of the Child Death Review Statutory Guidance. **Do you agree with this proposal? If not, please explain why.**



19. We propose that every child's death is reviewed at a child death review meeting involving practitioners directly involved in the the child's care, prior to being discussed anonymously by the Child Death Overview Panel (CDOP). The nature of this meeting will vary according to the circumstances of the child's death and the practitioners involved. It would (for example) take the form of a final case discussion following a Joint Agency Response to a sudden unexpected death in infancy; or a hospital-based mortality meeting following a death on a neonatal unit. The purpose of the child death review meeting is to ensure local learning and reflection. In contrast, the purpose of the CDOP is to provide independent scrutiny of each case, ensuring this is from a multi-agency perspective. **Do you agree with this proposal? If not, please explain why.**
20. Practitioners involved in the care of the child who died should be invited to attend the child death review meeting. If they cannot attend, they should submit a report, for which a Form B may be used. We propose that CDOP administrators work closely with child death review partners to gather and collate these reports. Please see Chapter 4 of the Child Death Review Statutory Guidance for more information on this process. **Do you agree with this proposal? If not, please explain why.**
21. A revised Form C is proposed at Appendix 5 of the Child Death Review Statutory Guidance. We have heard from stakeholders that two of the form's domains - 'family and environment' and 'parenting capacity' - are not helpful distinctions. We propose changing these domains to 'Social environment including family and parenting capacity', and 'Physical environment', respectively. **Do you agree with this proposal? If not, please explain why.**
22. We have heard from stakeholders that in many cases reports from child death review meetings (particularly hospital mortality meetings) are not routinely sent to CDOPs. We propose that all child death review meetings should routinely send a report to the CDOP, to inform its independent review of the case. This approach is intended to strengthen the link between the local review and the CDOP process, while also allowing for the right balance between local reflection and independent scrutiny of practice. **Do you agree with this proposal? If not, please explain why.**
23. Chapter 7 of the Child Death Review Statutory Guidance outlines expectations in a number of specific circumstances, including: deaths of UK-resident children overseas; deaths of children with learning disabilities; deaths of children in adult healthcare settings; suicide and self-harm; deaths in inpatient mental health settings and deaths in custody. **Do you feel we have covered an appropriate range of specific situations? Are the suggested approaches for each of these appropriate and workable? If not, please explain why.**
24. We have heard from stakeholders that some types of deaths (e.g. suicides) may best be reviewed at a themed CDOP meeting. This may apply when deaths from a

particular cause are of small number and/or require specialist expertise to inform the discussion. In these circumstances, we propose that neighbouring CDOPs and designated doctors for child death liaise and co-ordinate their approach. **Do you agree with this approach? If not, please explain why.**

## 4. Transitional arrangements

### Background

4.1 Guidance for Local Safeguarding Children Boards, which will be applicable during the transition period, will be set out in a transitional version of Working Together. The content will broadly reflect the existing text of chapters 3, 4 and 5 of 'Working Together 2015'. As it will be very similar, we are not consulting on these chapters.

4.2 This document will also include new guidance for Local Safeguarding Children Boards and safeguarding partners on arrangements for the transition<sup>3</sup>. We are consulting on this new guidance, a copy of which has been published alongside this document.

4.3 The guidance covers issues relating to the transition from Local Safeguarding Children Boards to safeguarding partner arrangements and child death review partner arrangements.

4.4 The guidance also covers issues relating to the transition from serious case reviews (SCRs) to the new arrangements for national and local reviews.

4.5 Please note that once the Child Safeguarding Practice Review Panel begins to operate, the current panel of independent experts on serious case reviews (covered in 'Working Together 2015') will wind down.

### Questions

**25.** Paragraphs 14-15 of the transitional guidance explain the proposal that child death overview panels have a 'grace period' of up to two months following the start of the child death review partner arrangements in their area in which to complete any outstanding child death reviews. **Do you agree with this proposal? If not, please explain why.**

**26.** Paragraphs 23-25 of the transitional guidance explain the proposal that Local Safeguarding Children Boards should have a 'grace period' of up to 12 months following the start of the safeguarding partner arrangements in their area in which to

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<sup>3</sup> Statutory provisions regarding the transition from the current arrangements to the new arrangements will be set out in commencement regulations to the Children and Social Work Act 2017.

complete and publish outstanding SCRs. **Do you agree with this proposal and with the guidance on handling information? If not, please explain why.**

**27.** Paragraphs 27-31 of the transitional guidance set out how safeguarding partners should manage information emerging from SCRs. **Do you agree with these proposals? If not, please explain why.**

# Annex A: The Local Safeguarding Partner (Relevant Agencies) (England) Regulations

## Draft Instrument

*Draft Regulations laid before Parliament under section \*\*\* of the \*\*\* Act \*\*\*, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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[2018 No.]

## CHILDREN AND YOUNG PERSONS, ENGLAND

### The Local Safeguarding Partner (Relevant Agencies) (England) Regulations [2018]

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>1. Coming into force-</i>	-	***

In accordance with section 66(3) of the Children Act 2004 (regulations subject to affirmative procedure), a draft of these Regulations [was/is to be] laid before Parliament and approved by a resolution of each House of Parliament and approved by a resolution of each House of Parliament. (4)

Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred by section 16E(3) of that Act. (5)

#### Citation and commencement

These Regulations may be cited as the Local Safeguarding Partners (Relevant Agencies) (England) Regulations [2018] and come into force on [\*\*\*].

#### Interpretation

In these Regulations “the Act” means the Children Act 2004.

#### Agencies to be treated as relevant agencies

The agencies listed in the Schedule below are relevant agencies for the purposes of section 16E(3) of the Act.

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(4) Section 66(3) of the Children Act 2004 has been amended (words inserted) by the Apprenticeships, Skills, Children and Learning Act 2009 c. 22 Pt 9 s.194(7) (April 1, 2010)

(5) Section 16E(3) inserted by s.15 of the Children and Social Work Act 2017

[Date]

## SCHEDULE

### RELEVANT AGENCIES

#### Regulation 3

Relevant Agencies	Statutory Reference
<i>National Health Service Commissioning Board (NHS England)</i>	
<i>NHS Trusts</i>	
<i>NHS Foundation Trusts</i>	
<i>Secure Children's Homes</i>	
<i>Residential Homes</i>	
<i>Residential Family Centres</i>	
<i>Residential Holiday Schemes for Disabled Children</i>	
<i>British Transport Police</i>	
<i>Providers of Probation Services</i>	
<i>Prisons</i>	
<i>Young Offender Institutions</i>	
<i>Secure Training Centres</i>	
<i>Youth Offending Teams</i>	
<i>Border Force</i>	
<i>Immigration Enforcement</i>	
<i>UK Visas and Immigration</i>	
<i>Independent Fostering Agencies</i>	
<i>Adoption Support Agencies (including voluntary)</i>	
<i>Pupil Referral Units</i>	
<i>Childminders</i>	
<i>Childminder Agencies</i>	
<i>Children's Centres</i>	
<i>Private, Voluntary, Independent, Maintained and Private Sector Childcare Providers</i>	
<i>Maintained Schools (including community, foundation and voluntary schools and maintained nursery schools)</i>	
<i>Academies (including Academy schools, 16-19 Academies and Alternative Provision Academies)</i>	
<i>Independent Schools</i>	
<i>Non-Maintained Special Schools</i>	
<i>Further Education Colleges</i>	
<i>Sixth Form Colleges</i>	
<i>Independent Specialist Colleges</i>	
<i>Special Post 16 Institutions</i>	
<i>Private Colleges</i>	
<i>Charitable and Commercial Providers of Higher Education</i>	
<i>Independent Learning Providers</i>	
<i>Community Learning and Skills Providers</i>	

*Education and Skills Funding Agency*  
*Secure Colleges*  
*Charities*  
*District Councils*  
*Cafcass*

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#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations specify relevant agencies for the purposes of the section 16E(3) of the Children and Social Work Act 2017. As well as being specified by these regulations the agencies must exercise functions in relation to children in their local authority area. Section 16E(1) provides that the safeguarding partners for a local authority area must make arrangements for themselves and any relevant agencies they consider appropriate to work together in exercising their safeguarding and welfare functions. [A full regulatory impact assessment has been produced for these Regulations as some impact on the private or voluntary sectors is foreseen/A full regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum [is/will be] available alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk)]

# Annex B: The National and Local Child Safeguarding Practice Review (England) Regulations

## Draft Instrument

Draft Order laid before Parliament under section \*\*\* of the \*\*\* Act \*\*\*, for approval by resolution of each House of Parliament.

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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[2018 No.]

## CHILDREN AND YOUNG PERSONS, ENGLAND

### The National and Local Child Safeguarding Practice Review (England) Regulations [2018]

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>2.Coming into force-</i>	-	***

In accordance with section 66(3) of the Children Act 2004 (regulations subject to affirmative procedure) a draft of these Regulations is to be laid before Parliament and approved by a resolution of each House of Parliament.  
(6)

Accordingly, the Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16B(1), 16B(6), 16F(1), 16F(6) of that Act and section 65 of the Children and Social Work Act 2017.  
(b)

## PART 1

### General

#### Citation and commencement

These Regulations may be cited as the National and Local Child Safeguarding Practice Review (England) Regulations [2018] and come into force on [\*\*\*].

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(<sup>6</sup>) Section 66(3) of the Children Act 2004 has been amended (words inserted) by the Apprenticeships, Skills, Children and Learning Act 2009 c.22 Pt 9 s.194(7) (April 1, 2010)

(b) Sections 12(B)(1)(b) , 16B(6) and 16F(6), inserted by ss.13, 17, 29 of the Children and Social Work Act 2017 respectively.



## **Interpretation**

In these Regulations “the Act” means the Children Act 2004.

In these Regulations “institutional settings” includes—

all children’s homes including secure children’s homes;

all custodial settings where a child is held, including police custody, young offender institutions and secure training centres;

all settings where detention of a child takes place including under the Mental Health Act 1983 or the Mental Capacity Act 2005.

## **PART 2**

### **National Reviews**

#### **National Review Criteria** [s.16B(6)(a)]

The Child Safeguarding Practice Review Panel must take into account the following criteria when determining whether a serious child safeguarding case raises issues that are complex or of national importance—

whether the case highlights or could highlight improvements needed to safeguard and promote the welfare of children, including where those improvements have been previously identified;

whether the case raises or may raise issues requiring legislative change or changes to statutory guidance;

whether the case highlights or could highlight recurrent themes in the safeguarding and promotion of the welfare of children;

whether the case raises or may raise issues relating to the safeguarding and promotion of the welfare of children in institutional settings.

The Panel may also take into account any other criteria they consider appropriate to identify whether a serious child safeguarding case raises issues that are complex or of national importance.

#### **Eligibility and Selection Process for Appointment as a Reviewer** [s.16B(6)(b), (c) and (d)]

The Panel must set up a pool of reviewers to conduct national reviews.

To be considered eligible by the Panel for appointment as a reviewer for a national child safeguarding practice review, the reviewer must be in the Panel’s pool of reviewers.

The Panel must select a reviewer from the pool of reviewers to conduct a national review.

If the Panel considers there are no reviewers in the pool with availability and suitable experience for the particular review, they may select a person as a reviewer who is not in the pool.

#### **Removal of a Reviewer**[s.16B(6)(f)]

The Panel may remove a reviewer from the pool of reviewers at any point and for any reason.

#### **Payments of Remuneration or Expenses to a Reviewer** [s.16B(6)(g)]

The Secretary of State may pay remuneration or expenses to a reviewer.

#### **Panel’s Supervisory Powers** [s.16B(6)(e)]

The Panel must consider the length of time taken to conduct each review, at regular intervals during the course of the review.

The Panel may request information regarding the progress and quality of the review from the reviewer.

The Panel's request to the reviewer for information regarding the progress and quality of the review may be made orally or in writing, at any time.

**Form and Content of a Report** [s.16B(6)(i)]

The report must include–

- a summary of recommended improvements for the safeguarding partners or others to safeguard and promote the welfare of children;
- an analysis of the systemic or underlying reasons why actions were taken or not taken in respect of matters covered by the report.

**Provision of a Report to Secretary of State** [s.16B(6)(j)]

The Panel must provide the report produced following outcome of a review to the Secretary of State as soon as possible and in any event by the earlier of the following dates–

- 7 days after completion of the report; or
- 7 days prior to publication of the report or information relating to improvements that should be made following the review.

Where the Panel publishes a report or information relating to improvements to be made following the review, the report or information published must remain publicly available for a minimum of three years.

## PART 3

### Local Reviews

**Local Review Criteria** [s.16F(6)(a)]

The safeguarding partners for a local authority area must take into account the following criteria in determining whether a serious child safeguarding case raises issues of importance in relation to the local authority area–

- whether the case highlights or could highlight improvements needed to safeguard and promote the welfare of children, including where those improvements have been previously identified;
- whether the case highlights or could highlight recurrent themes in the safeguarding and promotion of the welfare of children;
- whether the case raises or may raise issues relating to the safeguarding and promotion of the welfare of children in institutional settings.
- whether the case highlights or could highlight concerns regarding two or more agencies working together effectively to safeguard and promote the welfare of children.
- whether the case is one which the Child Safeguarding Practice Review Panel have considered and concluded a local review may be more appropriate.

The safeguarding partners may also take into account any other criteria they consider appropriate to determine whether a serious child safeguarding case raises issues of importance in relation to the area.

**Appointment of a Reviewer** [s.16F(6)(b)]

The safeguarding partners must appoint a reviewer to conduct a local review.

**Removal of a Reviewer** [s.16F(6)(b)]

The safeguarding partners may remove a reviewer from a review at any point including during a review or after a review is completed but prior to a report or information relating to improvements being published.

The safeguarding partners may remove a reviewer from a review for any reason.

**Procedure for a Review** [s.16F(6)(d)]

The safeguarding partners must consider the length of time taken to conduct each review at regular intervals during the course of the review.

The safeguarding partners may request information regarding the progress and quality of the review from the reviewer.

The safeguarding partner's request to the reviewer for information regarding the progress and quality of the review may be made orally or in writing, at any time.

**Form and Content of Report** [s.16F(6)(e)]

The report must include–

A summary of recommended improvements to be made by persons in the area to safeguard and promote the welfare of children;

An analysis of the systemic or underlying reasons why actions were taken or not taken in respect of matters covered by the report.

**Provision of a Report to the Secretary of State** [s.16F(6)(c)]

The safeguarding partners must provide the report produced following outcome of a review to the Secretary of State as soon as possible and in any event by the earlier of the following dates–

7 days after completion of the report; or

7 days prior to publication of the report or information relating to improvements that should be made following the review.

Where the safeguarding partners publish a report or information relating to improvements to be made following the review, the report or information published must remain publicly available for a minimum of one year.

Signatory text

Address	<i>Name</i>
Date	Minister of State for Children and Families Department for Education

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations set out various provisions, further to the Children and Social Work Act 2017, relating to the functions of the Child Safeguarding Practice Review Panel (section 16B(6)) and local child safeguarding practice reviews (section 16F(6)). Section 16B(1) provides that the functions of the Panel are in accordance with regulations made by the Secretary of State, to identify serious child safeguarding cases in England which raise issues that are complex or of national importance and where they consider it appropriate, to arrange for those cases to be reviewed under their supervision. Section 16F(1) provides that the safeguarding partners for a local authority area in England must make arrangements in accordance with this section, to identify serious child safeguarding cases which raise issues of importance in relation to the areas and for those cases to be reviewed under the supervision of the safeguarding partners, where they consider it appropriate.

[A full regulatory impact assessment has been produced for these Regulations as some impact on the private or voluntary sectors is foreseen/A full regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.] [An Explanatory Memorandum will be available alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk)]

## Annex C: Minor clarifications and amendments

C.1 The table below includes other drafting changes we expect to make when we reissue guidance, but on which we are not seeking views as part of this consultation. We propose to amend 'Working Together to Safeguard Children 2015' as follows:

Clarification/Update	Reason for change
Replaced references to 'professionals' with 'practitioners'.	
Update to legislation (status of the guidance) to include amendments made by the Children and Social Work Act.	Update required to reflect changes to legislation.
Assessments under the Children Act 1989 – this section has been reordered and headings included to make each assessment clearer.	Update to make process clearer.
Insertion of contextual safeguarding – extra-familial threats.	Update to reflect changes to policy.
Strengthen the wording on referrals.	Largely structural changes to make the process for making referrals about a child's safety or welfare as clear as possible.
Information sharing.	Update to reflect information sharing guidance.
Reference the National Assessment and Accreditation System.	Update to reflect new position.
Insertion of the role of the principal social worker in the section around principles and parameters of a good assessment.	
Special Educational Needs (SEN)/ Educational Health and Care Plans	Update the guidance to align with the new SEN provisions.

Clarification/Update	Reason for change
Deletion of 'with their managers' in the assessments sections.	
Update the section 11 responsibilities for prison and probation service.	Update to reflect changes to legislation and policy.
Addition of short paragraph about 'Sports Clubs' in the 'Organisational Responsibilities' section.	Allegations of non-recent abuse in sport have raised the profile of this area. There is a need to strengthen links between local authorities and statutory services with the sport sector.
Addition of short paragraph about Public Health England in the 'Organisational Responsibilities' section.	
Addition of short paragraph about Multi-Agency Public Protection Arrangements (MAPPA) in the 'Organisational Responsibilities' section.	

## Annex D: Full list of consultation questions

D.1 Below is the full list of questions asked in this consultation.

### Chapter 3 – Multi-agency safeguarding arrangements

**Question 1.** As set out in paragraphs 4-7 of Chapter 3 of the draft ‘Working Together to Safeguard Children’ 2018 it will be the responsibility of the safeguarding partners’ representatives to determine how they work together in respect of their arrangements. All three partners have equal and joint responsibility for local safeguarding arrangements, and each safeguarding partner will appoint their own representative. We do not propose to set out in statutory guidance who these representatives should be, as it is a matter for safeguarding partners. Do you agree with this approach? If not, please explain why.

**Question 2.** Safeguarding partners can choose specific agencies which they believe to be relevant to the work of safeguarding and promoting the welfare of children in their area. The Local Safeguarding Partner (Relevant Agencies) (England) Regulations details the specific agencies which safeguarding partners can choose from (a draft is provided at Annex A of this document). It is important to note that certain key agencies are not listed as their functions are commissioned or otherwise overseen by one or more of the safeguarding partners - for example, general practitioners (GPs) come under NHS England and housing comes under the local authority. Do you agree with this indicative list? If not, please explain why and if you believe any agencies should be added or removed.

**Question 3.** All schools (including maintained schools, special schools, independent schools, academies and free schools) have duties in relation to safeguarding children and promoting their welfare. As set out in paragraphs 18-19 of Chapter 3 of the draft ‘Working Together to Safeguard Children’ 2018 we expect all local safeguarding arrangements to contain explicit reference to how the safeguarding partners plan to involve, and give a voice to, all schools and academies in their work. Do you agree that this expectation should be stipulated in statutory guidance? Please explain your answer.

**Question 4.** The safeguarding partners must include arrangements for scrutiny by an independent person of the effectiveness of safeguarding arrangements, and how best to implement a robust system of independent scrutiny will be a local decision. Paragraph 20 of Chapter 3 of the draft ‘Working Together to Safeguard Children’ 2018 states that safeguarding partners should involve a person or persons who are independent, for example by virtue of being from outside the local area or having no prior involvement with local agencies. Do you agree with this? If not, please explain why.

**Question 5.** Paragraph 24 of Chapter 3 of the draft ‘Working Together to Safeguard Children’ 2018 makes it clear that safeguarding partners should agree the level of funding secured from each partner, and from each relevant agency, to support the new

safeguarding arrangements. Decisions on funding are for local determination, but contributions should be equitable and proportionate to meet local needs. Do you agree that this is the right approach? If not, please explain why.

**Question 6.** Safeguarding partners must publish a report at least once in every 12 months, setting out what they, and their relevant agencies, have done as a result of the arrangements, and how effective the arrangements have been. These reports will be a key element of local accountability and self-assessment. At paragraph 29 of Chapter 3 of the draft 'Working Together to Safeguard Children' 2018 we have set out a non-exhaustive list of parameters for these reports in guidance, to ensure a nationally consistent set of useful and high quality publications. Do you agree with this approach? If not, please explain why.

**Question 7.** The safeguarding partners should consider carefully how multi-agency safeguarding arrangements will work in their area. This includes determining how best to ensure that clear criteria for taking action are made available to relevant agencies and others in a transparent, accessible and well-understood way. Currently, Local Children Safeguarding Boards are required to produce a threshold document. We are not proposing to specify in statutory guidance how, and in what format, the safeguarding partners should make their criteria for action available. Do you agree with this approach? If not, please explain why.

#### **Chapter 4 – Learning from serious cases; and new regulations on local and national reviews**

**Question 8.** Paragraphs 15-17 of Chapter 4 of the draft 'Working Together to Safeguard Children' 2018 set out the actions the safeguarding partners should take on receipt of a notification of a child safeguarding incident, and the relationship between the safeguarding partners and Panel from then on. Do you agree with the procedure as set out? If not, please explain why.

**Question 9.** The Act makes clear that the Panel or safeguarding partners have responsibility to determine whether a review is appropriate, on the basis of 'whether the review may identify improvements which should be made'. However, regulations may require the Panel and safeguarding partners to take certain matters into account when taking the decision, and guidance may support this. Regulation 4 sets out national review criteria which the Panel would be required to take into account when deciding whether to commission a national review. Regulation 18 sets out local review criteria which safeguarding partners would be required to take into account when deciding whether to commission a local review. Paragraphs 20 and 37 of Chapter 4 of the draft 'Working Together to Safeguard Children' 2018 set out additional circumstances for consideration. Do you agree with these criteria and circumstances? If not, please explain why.

**Question 10.** Paragraphs 23-24 and 41-42 of Chapter 4 of the draft ‘Working Together to Safeguard Children’ 2018 set out the factors which the safeguarding partners and the Panel respectively should consider when commissioning reviewers for local and national reviews. Do you agree with these factors? If not, please explain why.

**Question 11.** Paragraphs 25-28 and 43-46 of Chapter 4 of the draft ‘Working Together to Safeguard Children’ 2018 set out the procedures which the safeguarding partners and the Panel respectively should follow when supervising local and national reviews. Regulations 12-14 add requirements regarding the Panel’s supervisory powers. We do not propose to include further details in the regulations relating to procedures. Do you agree with these procedures? If not, please explain why.

**Question 12.** Paragraphs 30-33 and 48-52 of Chapter 4 of the draft ‘Working Together to Safeguard Children’ 2018 set out the expectations for the final report which the safeguarding partners and the Panel respectively need to follow. These paragraphs also cover timescales for publication and arrangements for submitting final reports. Do you agree with these expectations and timescales? If not, please explain why.

**Question 13.** The Act allows the Secretary of State to make regulations to set up a list of reviewers, from which safeguarding partners could be required to select reviewers for local reviews. To maintain maximum flexibility in the system, we do not propose to set up such a statutory list at this time. Do you agree with this approach? If not, please explain why.

**Question 14.** Do you have any comments on the content of the regulations at Annex B which you have not already covered above? If so, please provide details below.

## **Chapter 5 – Child death reviews**

**Question 15.** In reviewing the circumstances around the death of a child, the overarching aim is to prevent future child deaths. We have heard from stakeholders that the term “preventable” has posed a hindrance to learning. Instead of asking about preventability, we propose that the child death review process should consider and identify “modifiable factors”. That is, contributory factors to a death, that could be modified to reduce the risk of future child deaths. Do you agree with this approach? If not, please explain why.

**Question 16.** We have heard from stakeholders that the distinction between ‘expected’ and ‘unexpected’ child deaths can lead to confusion (partly because it may depend from whose viewpoint the question is being considered). We propose a new approach, which allows each individual death to be responded to appropriately, rather than determining whether or not a death meets certain criteria for investigation. This is about working differently, and changing the initial stages of the process. It does not imply an additional burden. Do you agree with this approach? If not, please explain why.



**Question 17.** The Wood Review recommended that the area covered by child death reviews should cover ‘a population size that gives a sufficient number of deaths to be analysed for patterns, themes and trends of death’. The new legislation gives the child death review partners flexibility to agree that two or more local authority areas may work together as a single area. We are proposing that the geographical ‘footprint’ of the arrangements should be locally agreed, based on patient flows across existing networks of NHS care. Child death review partners should come together to develop clear plans outlining the administrative and logistical processes for their new arrangements. Child death review ‘footprints’ should typically cover a child population such that they review 80-120 child deaths each year. Do you agree with these proposals? If not, please explain why.

**Question 18.** We propose that families should be assigned a “key worker” to act as a single point of contact who they can turn to for information on the child death review process, and who can signpost them to sources of support. This is already best practice and should not imply an additional burden. More information on the role of the key worker is available in Chapter 6.5.1 of the Child Death Review Statutory Guidance. Do you agree with this proposal? If not, please explain why.

**Question 19.** We propose that every child’s death is reviewed at a child death review meeting involving practitioners directly involved in the the child’s care, prior to being discussed anonymously by the CDOP. The nature of this meeting will vary according to the circumstances of the child’s death and the practitioners involved. It would (for example) take the form of a final case discussion following a Joint Agency Response to a sudden unexpected death in infancy; or a hospital-based mortality meeting following a death on a neonatal unit. The purpose of the child death review meeting is to ensure local learning and reflection. In contrast, the purpose of the CDOP is to provide independent scrutiny of each case, ensuring this is from a multi-agency perspective. Do you agree with this proposal? If not, please explain why.

**Question 20.** Practitioners involved in the care of the child who died should be invited to attend the child death review meeting. If they cannot attend, they should submit a report, for which a Form B may be used (see Appendix 4 of the Child Death Review Statutory Guidance). We propose that CDOP administrators work closely with child death review partners to gather and collate these reports. Please see Chapter 4 of the Child Death Review Statutory Guidance for more information on this process. Do you agree with this proposal? If not, please explain why.

**Question 21.** A revised Form C is proposed at Appendix 5 of the Child Death Review Statutory Guidance. We have heard from stakeholders that two of the form’s domains - ‘family and environment’ and ‘parenting capacity’ - are not helpful distinctions. We propose changing these domains to ‘Social environment including family and parenting capacity’, and ‘Physical environment’, respectively. Do you agree with this proposal? If not, please explain why.

**Question 22.** We have heard from stakeholders that in many cases reports from child death review meetings (particularly hospital mortality meetings) are not routinely sent to CDOPs. We propose that all child death review meetings should routinely send a report to the CDOP, to inform its independent review of the case. This approach is intended to strengthen the link between the local review and the CDOP process, while also allowing for the right balance between local reflection and independent scrutiny of practice. Do you agree with this proposal? If not, please explain why.

**Question 23.** Chapter 7 of the Child Death Review Statutory Guidance outlines expectations in a number of specific circumstances, including: deaths of UK-resident children overseas; deaths of children with learning disabilities; deaths of children in adult healthcare settings; suicide and self-harm; deaths in inpatient mental health settings and deaths in custody. Do you feel we have covered an appropriate range of specific situations? Are the suggested approaches for each of these appropriate and workable? If not, please explain why.

**Question 24.** We have heard from stakeholders that some types of deaths (e.g. suicides) may best be reviewed at a themed CDOP meeting. This may apply when deaths from a particular cause are of small number and/or require specialist expertise to inform the discussion. In these circumstances, we propose that neighbouring CDOPs and designated doctors for child death liaison and co-ordinate their approach. Do you agree with this approach? If not, please explain why.

### **Transitional arrangements**

**Question 25.** Paragraphs 14-15 of the transitional guidance explain the proposal that child death overview panels have a 'grace period' of up to 2 months following the start of the child death review partner arrangements in their area in which to complete any outstanding child death reviews. Do you agree with this proposal? If not, please explain why.

**Question 26.** Paragraphs 23-25 of the transitional guidance explain the proposal that Local Safeguarding Children Boards should have a 'grace period' of up to 12 months following the start of the safeguarding partner arrangements in their area in which to complete and publish outstanding SCRs. Do you agree with this proposal and with the guidance on handling information? If not, please explain why.

**Question 27.** Paragraphs 27-31 of the transitional guidance set out how safeguarding partners should manage information emerging from SCRs. Do you agree with these proposals? If not, please explain why.



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