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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of response

Handling Individual Cases to Protect People at Risk

Guidance on handling individual cases to protect children and adults at risk - Consultation

August 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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Section 1

Introduction

The Social Services and Well-being (Wales) Act 2014 (“the Act”) received Royal Assent on 1 May 2014. The Act forms the basis of a new statutory framework for social care in Wales.

From the outset, the Welsh Government made a commitment to working with people to help shape the secondary legislation and the implementation, and deliver the practice and culture change being driven forward through the Act. This commitment underpinned a comprehensive engagement and consultation process.

A consultation was held on the proposals for Volumes 5 and 6 – Handling Individual Cases to Protect Children and Adults at Risk. That consultation ran from 31 January to 25 April 2017.

The documents were developed with a working group of practitioners and 2 large workshops were held, in North and South Wales, to inform the final product.

In addition to formal consultation, officials gave presentations to groups, attended one to one meetings, and encouraged people to invite them to their existing meetings. Stakeholders were asked to share information with their networks and feed back to the Welsh Government.

As well as being made available to the wider public via the Welsh Government internet pages, the consultation was distributed to key stakeholder groups, including:

- Chairs of Safeguarding Boards in Wales
- Welsh Local Government Association
- The Children’s Commissioner for Wales
- The Older People’s Commissioner for Wales
- Third Sector organisations
- Local Authorities
- Association of Directors for Social Services Cymru
- Care and Social Service Inspectorate Wales
- Children in Wales
- National Independent Safeguarding Board
- Registered Social Landlords
- Health Boards
- Chief Constables in Wales

Pre-consultation Events

Two events were held prior to the consultation process. The purpose of these was to:

- promote engagement with the consultation;
- provide a base level of understanding to key stakeholder groups of the areas we would be consulting on.

Attendees were asked to participate in discussions on the formulation of the guidance, and also to share information from the events with their wider networks to provoke deeper engagement with the proposals and a wider span of consultation responses.

The first event was held on 30 November 2016 in Llandudno. The second was held on 8 December 2016 in Cardiff. There were approximately 30 attendees at the event in North Wales and 40 attendees in the South Wales event. The range of stakeholders included representation from:

- Children in Wales
- Children's Commissioner for Wales
- CSSIW
- Health Boards
- Local Authorities
- National Probation Service Wales
- Public Health Wales
- Safeguarding Adults Boards
- Safeguarding Children's Boards
- South Wales Police
- Welsh Ambulance Service
- Welsh Local Government Association

The Welsh Government received 55 responses to the consultation. Some responses were purely narrative and therefore do not appear in the summary of tick box responses. All have been considered equally in terms of comments received. A list of respondents is attached at Annex A. A summary of consultation responses together with the Welsh Government's analysis can be found in Section 2.

Background

Volumes 5 and 6 set out clear expectations about the ways in which agencies and practitioners should work together to safeguard all people in Wales. In particular, the guidance sets out the procedure for handling individual cases after a report has been made to a local authority about a child or adult at risk.

A small task and finish group met in 2016 to support the development of the guidance. The guidance was tested at 2 workshops in November and December 2016, with representatives identified by Safeguarding Boards, to consider the working drafts of the updated guidance.

Stakeholders will use the guidance in the compendium under Part 7 to align their processes with the Social Services and Well-being (Wales) Act 2014. The initial drafts were well received at the workshops and the final versions will be built upon by the review of the National Protection Procedures which are under development by safeguarding boards.

Section 2 - Response to the Consultation Questions

Welsh Government Analysis

There was widespread agreement to the proposals in relation to safeguarding of children and adults. This reflects the extensive work undertaken through the Safeguarding Advisory Panel and wider stakeholder engagement during the development of the regulations and statutory guidance. As a result the approach was widely supported.

Key themes from the responses are the need to strengthen:

- the applicability of the guidance to education providers, particularly for cases relating to children;
- the links to cases of domestic abuse, for children impacted by domestic abuse and adults who are victims of domestic abuse;
- the need to emphasise the involvement of the individual and their family in the formal processes for dealing with people at risk;
- the manner of dealing with cases where institutional abuse is indicated;
- the needs of those whose first language is neither Welsh nor English; and
- the inconsistent terminology used in specific parts of the guidance.

The Welsh Government accepts all of the above themes and the guidance will be amended to reflect these areas.

Many commented that the role of schools and education providers in reporting children and adults at risk of harm needed strengthening in both documents. While education providers are not listed as relevant partners under the Social Services and Well-being (Wales) Act 2014, we will amend the guidance to make more explicit the role that all education providers are expected to play in the protection of children and adults at risk. Similar comments were received on the role of the third sector and the need to emphasise the multi-agency element of keeping people safe.

The guidance will also be updated to include links across to legislation on domestic abuse and how the processes should interact and not be considered in isolation from each other.

It is also apparent from feedback during consultation and correspondence from individuals with the Welsh Government that there is insufficient emphasis on the importance of engaging with the individual and their family during the process of protecting an individual at risk, and keeping them informed at all stages of the process.

We will also amend the guidance to make clear the need to deal effectively with cases of organised or multiple abuse to identify patterns of abuse in particular settings.

The guidance will also make reference to addressing the needs of those whose language of choice is neither Welsh nor English and improve consistency of terminology.

In addition NSPCC Wales pointed to the examples of neglect given at paragraph 40 of the Children's Guidance not matching the definition of neglect given in the Social Services and Well-being (Wales) Act 2014 and not conveying the key concept of failure to meet needs. The current draft will be expanded to include failure to meet basic physical, emotional or psychological needs which is likely to result in impairment of health or development.

Some responses did outline particular areas for further consideration and these have also been considered but the guidance has not been altered as a result. These areas are set out below.

These include what is regarded as a missed opportunity to more closely align the process and timescales in respect of children and adults suspected to be at risk. While the Welsh Government recognises a divergence in the legislation governing the actions of agencies and individuals following a report, it also recognises the feedback from the pre-engagement and consultation about the processes for children and adults, in particular the language used and timescales for enquiry and investigation. Professionals already working with the processes did acknowledge that the differences present some difficulties with presenting a single process for the National Protection Procedures. However there was no support for changing either process as they worked well and were suited for their respective areas.

Some respondents felt that the emphasis on a child-centred approach may lead to an invasion upon the rights of the carer, or that the requirement to speak to a child alone may serve to place them at risk unless there is a requirement for witnesses to be present. The approach to working in the best interests of the child is a theme that runs consistently through the Social Services and Well-being (Wales) Act 2014 and corresponding legislation and guidance and the Welsh Government does not intend to take a different approach in the guidance.

Several responses suggested there may be potential confusion with different timescales for the finalisation of the new National Protection Procedures. The Welsh Government has advised Safeguarding Boards that taken together, the guidance issued under Part 7 of the Social Services and Well-being (Wales) Act 2014 will form a suite of documents that will replace 'Working Together' 2004 and 'In Safe Hands'. Thus it is acknowledged that for a short period over 2017-18 there will be a mismatch but it is only the statutory guidance that indicates statutory responsibilities.

In addition to the themes identified above there were very detailed comments and suggested amendments for both consultation documents, all of which will be considered so the final documents can be improved.

The Welsh Government welcomes all consultation responses; they have provided evidence to inform refinement of the draft statutory guidance to provide clarification on a number of points and will also inform the development of the National Protection Procedures.

In considering the responses to individual questions asked in the consultation in Part 2, there are qualitative and quantitative analyses under each question. Where there was an opportunity for a broad range of answers a breakdown has been included. Where questions were either more targeted or required a narrative, there is no quantitative information.

In addition to identifying the key themes from the consultation, the Welsh Government's response sets out what action has or will be taken to address the specific points. Where regulations and guidance have been revised and where additional action has been or will be taken which addresses the issues raised, this is identified.

Question 1:

	1. Is the guidance clear and easy to follow?		
	Yes	No	Unsure
Total	32	8	6

Summary

There was majority agreement that the guidance is clear and easy to follow. The key components of effective collaboration, a person-centred approach and co-productive working are articulated well.

Estyn suggested that the role of education providers in reporting children and adults at risk should be emphasised more strongly.

Some stated that the use of 'report' and 'referral' was confusing.

Several respondents pointed out that it was difficult to suggest suitable amendments while the National Protection Procedures are in production, so it was problematic to envision how the documents would fit together. Some acknowledged that their proposals may fit better in the Procedures for practitioners than in the guidance.

A request for greater clarity in defining roles and responsibilities also featured in responses.

Welsh Government Response

While the Act does not list independent education providers as relevant partners in their own right, we have been clear all along that safeguarding is everybody's business and that those whose activities bring them into contact with children and adults at risk are expected to act swiftly and appropriately when safeguarding concerns arise.

Paragraph 7 of the section on the duty to report children at risk within the draft guidance for children referred to Section 162(2) of the Act states that a local authority must also make arrangements to promote co-operation between the relevant officers

of the authority who exercise its own functions, this will include education.

The role of education is so critical that the emphasis will be strengthened in the final version of the Handling Individual Cases guidance.

In reference to the confusion over the use of 'report' and 'referral'; report is taken to mean a report under the Act's duty to report whereas a referral relates to an internal process within agencies listed as statutory partners. The term report is used to align the process with the term used in the Act. However, the guidance with respect to children states that for the purposes of the guidance a report to social services will be taken to also mean a referral. We have replicated that statement in the adults' guidance.

The Welsh Government is of the view that the specific roles and responsibilities of the individuals and agencies involved in the safeguarding of children and adults at risk will be more appropriately covered in the National Protection Procedures.

Question 2:

	2. Is there any part of the guidance which would be more appropriate for the revised All-Wales Protection Procedures? If so please specify below.		
	Yes	No	Unsure
Total	12	23	6

Summary

The majority of respondents indicated agreement that the guidance provides a firm footing for the National Protection Procedures to provide greater detail and good practice. The integration of Care and Support plans with the safeguarding processes was welcomed. Some respondents suggested that there is scope for greater clarity and consistency between adult and child guidance. However, there was also a welcome (Cardiff City Council) for the clarity and brevity of the adult and child guidance, which should be bolstered by the National Protection Procedures.

Other respondents felt that the guidance combined strategic and procedural guidance and that the procedural element would be best left to the National Protection Procedures.

Denbighshire Local Authority suggested that the reference to a telephone discussion being considered as an appropriate means to convene a strategy meeting is a helpful suggestion when considering the current difficulties and the delays caused by not always being able to get all the appropriate people for a face-to-face meeting in a timely manner. This approach would be a helpful way of streamlining the process.

Welsh Government Response

The Welsh Government's intention is that these guidance documents should provide a firm basis for the National Protection Procedures which should be complementary to, rather than duplicate, the guidance; other than where particular emphasis needs to

be given to strategic, legislative requirements, and legislative differences in the treatment of adults and children at risk. References to the possibility of a strategy meeting being held on a virtual basis are made in both the children’s guidance and adults’ guidance.

Question 3:

	3. Do the flowcharts adequately reflect the process for managing individual cases? If not please specify which flowchart and how it could be improved.	
	Yes	No
Total	19	18

Summary

Respondents were fairly evenly divided as to the accuracy and usefulness of the flowcharts. Almost all felt that they should be included as an aid to mapping the process. Some felt they enforce the procedure and steps making it easy to understand. Conwy Borough Council thought they are potentially confusing and fail to replicate the procedure set out in the text. Estyn felt that flowcharts detailing the processes involved in reporting and managing referrals are clear, concise, and reflected the process well and are easy to follow. The University of South Wales felt that a clear structure guide is essential to ensure all services are following the correct protocols for practice, especially for newly qualified staff. Public Health Wales felt that the flowchart in the adult’s document should reflect the flowchart in the children’s document.

There was also a call for the NHS Decision Tree that is being piloted by the NHS Wales Safeguarding Network, to be included in the guidance.

Welsh Government Response

The flowcharts are intended to give a quick reference and overall guide to the legislative requirements. They are not intended to replace the ability of professionals to make judgements as to the course of action to be taken in specific circumstances, nor to reproduce processes which should be set out in greater detail in the National Protection Procedures. However, the comments are helpful and the charts will be updated to reflect feedback.

The key updates to the flowcharts include:

- An update the adult’s flowchart to reflect the format and the process followed in the children’s flowchart;
- Ensure a stronger alignment to the text within the guidance;
- Updated terminology and timescales; and
- Consideration of when consent should be sought, and by whom.

The flowcharts will be updated and tested with safeguarding children and adults teams before the final guidance is published.

The NHS Decision Tree is being developed independently of this guidance, and the timescales for delivery do not meet our commitment to publish this guidance. The Welsh Government is also of the view that the Decision Tree will be best placed in the National Protection Procedures.

Question 4: No tick boxes

	<p>4. We would like to know your views on the effects that the guidance would have on the Welsh language, specifically on</p> <p>i) opportunities for people to use Welsh; and</p> <p>ii) on treating the Welsh language no less favourably than English.</p> <p>What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?</p>
<p>Summary</p> <p>There was general agreement that publication of the two sets of guidance would have a positive effect on the ability of people to access services in the language of their choice. Estyn stated that ‘the commitment to co-operative working and a person centred approach that are at the heart of the proposals, should ensure that opportunities for people to use Welsh and have advocacy in their preferred language are protected’. However, Anglesey Education Authority stressed that the ability to provide bilingual services in practice would be ultimately limited by the availability and deployment of bilingual practitioners.</p> <p>Some respondents raised the issue of the need to address some clients in languages other than Welsh or English, Social Care Wales cited the Victoria Climbié case as an example to highlight the point.</p> <p>Welsh Government response</p> <p>Under the terms of the Welsh Government’s former Welsh Language Scheme an assessment of the impacts of the Social Services and Well-being (Wales) Act 2014 was conducted during the Bill process. At the time the assessment identified that negative impacts on the Welsh language were considered unlikely and that the Act was designed to create a fairer and more equitable system for people eligible for care and support. The Welsh Language (Wales) Measure 2011 takes forward much of the content of the Welsh Language Act 1993 and it is this legislation which provides the overarching legal framework for the Welsh language in public services: all people and organisations involved in the delivery of social services and social care must have regard to the right of people to communicate in Welsh and will be required to comply with the Welsh Language Standards published by the Welsh Language Commissioner. The Welsh Government published ‘More than just Words’ in 2012 to strengthen Welsh language services in health, social services and social care. A key principle is the Active Offer of providing a service in Welsh without someone having to ask for it.</p> <p>With regard to the need to provide services which are accessible to those whose language of choice is neither Welsh nor English, this is addressed in the response to Question 5 below.</p>	

Question 5:

	5. The Welsh Government is interested in understanding whether the proposals in this consultation document regarding this guidance will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?	
	Yes	No
Total	21	10
<p>Summary</p> <p>Most respondents considered the proposals would have a positive or neutral impact on groups with protected characteristics.</p> <p>Cardiff Council suggested that, although neither document makes direct reference to protected characteristics, the general principle within both documents is one of safeguarding all individuals who meet the criteria of being at risk of or experiencing abuse. Within the Vol. 6 document the section on supported and informed decisions could be strengthened to include reference to any cultural or protected characteristics which may give professionals a false understanding of informed decisions, and may guide professionals to consider alternative safeguarding options.</p> <p>The question of addressing the need to provide services in chosen languages other than Welsh and English was raised in the context of failing to recognise the needs of BME communities (UNISON Wales) or those with particular communication difficulties (Cwm Taf Safeguarding Board).</p> <p>Welsh Government Response</p> <p>Regulations, Codes of Practice and Statutory Guidance are all underpinned by the principles set out in the Social Services and Well-being (Wales) Act 2014 which contains an overarching duty at 6(2)(c) that any person exercising a function under the Act must have regard to the characteristics of culture and belief of the individual which includes language. The Welsh Government will reinforce that need in the final versions of the guidance.</p> <p>All provisions of the guidance relating to children are intended to improve outcomes referred to in the relevant articles of UNCRC.</p> <p>A general reference to the need to consider protected characteristics will be inserted into the guidance but more detailed consideration will inform the National Protection Procedures.</p>		

Question 6:

	6. Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?	
	Yes	No
Total	11	25

Summary

A clear majority of respondents agreed that the proposals would not have a negative impact on groups with protected characteristics.

The Alzheimer's Society suggested that there should be specific reference to the Equality Act 2010 or the UN Principles for Older People (Age Cymru).

Welsh Government response

Regulations, Codes of Practice and Statutory Guidance are all underpinned by the principles set out in the Act, which contain an overarching duty at 6(2)(c) that any person exercising a function under the Act must have regard to the characteristics of culture and belief of the individual which includes language.

The Act and the guidance clearly recognise the need to include representation from those who exercise functions or are engaged in activities relating to children and adults in the Board's area. We will refine the guidance to include more explicit references to organisations and bodies in Wales who undertake such functions.

.Annex A - List of respondents

No	Confidential Y / N		Name	Organisation/On behalf of
1.		✓	Margaret Flynn	National Independent Safeguarding Board
2.	✓			
3.		✓	Jane Marr	Anglesey Education Authority
4.	✓			
5.		✓	Chief Inspector	Estyn
6.		✓	Chris Walker/Ian Turner	Conwy County Borough Council
7.		✓	Carys Phillips	
8.		✓	Pauline Gallucio	Powys Teaching Health Board
9.		✓	Nikki Harvey	Welsh Ambulance Services NHS Trust
10.	✓			
11.		✓	Sean O'Neill	Children in Wales
12.		✓	Nicola Edwards	Hywel Dda University Health Board
13.		✓	Alaw Pierce	Denbighshire Local Authority
14.		✓	Christie Owen	British Dental Association Wales
15.	✓			
16.	✓			
17.		✓	Gerry Evans	Social Care Wales
18.		✓	Professor Ruth Northway/Dr Michelle Culwick	Faculty of Life Sciences and Education, University of South Wales
19.		✓	Sarah Rochira	Older People's Commissioner for Wales
20.		✓	Lin Slater	Aneurin Bevan University Health Board
21.		✓	Cecile Gwilym	NSPCC Cymru/Wales
22.		✓	Emma Curtis	City and County of Swansea; Social Services
23.		✓	Nicola Kingham	Cwm Taf Safeguarding Boards
24.		✓	Karen Jackson	NPT Homes
25.		✓	Sonia Wearne	Clybiau Plant Cymru Kids' Clubs
26.		✓	Jacqueline Davies	Powys County Council
27.		✓	Christopher Williams	Age Cymru
28.		✓	Linda Davies	Public Health Wales
29.		✓	Helen Thomas	Information Commissioner's Office
30.	✓			
31.		✓	Dr Ed Bridges	Alzheimer's Society Cymru
32.		✓	Peter Orford	Torfaen Social Care and

				Housing
33.		✓	Pauline Bird	North Wales Safeguarding Boards
34.		✓	Professor Sally Holland	Children's Commissioner for Wales
35.		✓	Jason Tucker/Dr Lucy Series	Centre for Health and Social Care Law, Cardiff University
36.		✓	Terri Warrilow	Bridgend County Borough Council
37.		✓	Chris Kang-Mullen	The National Deaf Children's Society (Wales)
38.		✓	Wendy Sunderland-Evans	ABM University Health Board (Adults)
39.		✓	Wendy Sunderland Evan	ABM University Health Board (Children)
40.		✓	Suzanne Griffiths	National Adoption Services for Wales
41.		✓	Sally Jenkins	All Wales Heads of Children's Services
42.		✓	Eleri Griffiths	Mudiad Meithrin
43.	✓			
44.	✓			
45.		✓	Cheryl Perry	Student Specialist Community Public Health School Nurse, University of South Wales
46.	✓			
47.	✓			
48.		✓	Linda Hughes-Jones	Cardiff and Vales UHB
49.		✓	Andrew Rutherford	UNISON Cymru/Wales
50.		✓	Denise Inger	SNAP Cymru
51.		✓	National Safeguarding Team (NHS Wales)	Public Health Wales
52.		✓	Joel Martin	Carmarthenshire County Council
53.	✓			
54.	✓		Simon Boddis	HM Prison and Probation Service
55.	✓		Alys Jones	Cardiff Council