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Welsh Government

## Consultation Document

# Revised guidance on safeguarding children in education



Date of issue: 27 August 2013

Action required: Responses by 25 October 2013

# Revised guidance on safeguarding children in education

## Overview

This consultation seeks views on draft revised guidance for local authorities and governing bodies of maintained schools and further education institutions on arrangements for safeguarding children under section 175 of the Education Act 2002. The guidance is also for proprietors of independent schools to enable compliance with the welfare, health and safety standards prescribed in regulations under section 157 of the Education Act 2002.

The guidance replaces Welsh Assembly Government Circular No: 005/2008 *Safeguarding Children in Education: The role of local authorities and governing bodies under the Education Act 2002*.

## How to respond

Responses to this consultation should be e-mailed/posted to the address below to arrive by **25 October 2013** at the latest.

## Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

The consultation documents can be accessed from the Welsh Government's website at [www.wales.gov.uk/consultations](http://www.wales.gov.uk/consultations)

## Contact details

For further information, contact:  
Diverse Learners and Safeguarding Branch  
Support for Learners Division  
Department for Education and Skills  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

e-mail: [SafeguardingChildreninEducation@wales.gsi.gov.uk](mailto:SafeguardingChildreninEducation@wales.gsi.gov.uk)

## **Data protection**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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## Introduction

1. [Section 175 of the Education Act 2002](#) came into force in Wales on 1 September 2006 and created a legal duty for all local authorities, maintained schools and further education institutions in Wales to exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children.
2. The Welsh Government issued Circular No: 005/2008 [Safeguarding Children in Education: The role of local authorities and governing bodies under the Education Act 2002](#) (“the 2008 guidance”) to provide guidance on how to give effect to this statutory duty. These education providers must have regard to this guidance.
3. Proprietors of independent schools must comply with the guidance to satisfy the standards, under [section 157 of the Education Act 2002](#), about the welfare, health and safety of pupils at the school.
4. The guidance applies to all:
  - local authorities
  - governing bodies of maintained schools (including pupil referral units, voluntary aided schools and foundation schools)
  - proprietors of independent schools
  - principals of further education institutions.
5. The guidance aims to help all education providers to make sure they have effective systems in place to help keep children and young people safe by:
  - contributing to effective partnership working between all those involved with providing services for children and young people
  - creating and maintaining a safe learning environment for children and young people
  - identifying where there are child welfare concerns and initiating or taking action to keep them safe
  - developing children’s understanding, awareness, and resilience through the curriculum
  - preventing unsuitable people from working with children and young people
  - promoting safe practice and challenging poor and unsafe practice.

## Why are we revising the guidance?

6. The revision of the guidance is a Ministerial commitment and a Welsh Government Implementation Plan priority, in order to reflect legislative changes and best practice. In particular, revisions are needed to the guidance to provide information on key changes to pre-employment vetting and barring checks introduced by the Protection of Freedoms Act 2012.
7. The revised guidance replaces the following Welsh Government circulars:
  - Circular No: 005/2008 *Safeguarding Children in Education: The role of local authorities and governing bodies under the Education Act 2002* (April 2008)
  - Circular No: 018/2009 *Reporting Misconduct and Incompetence in the Education Service: Reporting Cases of Misconduct or Professional Incompetence in the Education Service - Revised Reporting Arrangements from 12 October 2009* (September 2009)
  - Circular No: 02/2003 *Criminal Records Bureau: Basic Facts for School Volunteers* (February 2003)
  - Circular No: 34/2002 *Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service* (October 2002).
8. The document incorporates legislative changes since the previous guidance was issued in 2008 and refers to the most up-to-date statutory guidance documents on related issues.
9. Since its publication in 2008, education practitioners in Wales have frequently told us that they would welcome more comprehensive guidance in line with that issued in England by the Department for Education and Skills in 2006, *Safeguarding Children and Safer Recruitment in Education*. We therefore have expanded some of the information to provide a more comprehensive guide to the full range of safeguarding issues about which education providers must be aware.
10. In England, the UK Government recently issued a revised version of their guidance for consultation, now called *Keeping Children Safe in Education: Statutory Guidance for Schools and Further Education (FE) Colleges*.

This reduces the guidance in England from 122 pages to 18 pages. In Wales we have decided to take a different approach, in line with the views of practitioners.

11. We have also changed the structure of the guidance as we want to make it as useful and user-friendly as possible. The revised document contains hyperlinks to guidance, useful reports, regulations and legislation, in order to help readers quickly access more detailed information as and when they need it.
  
12. This consultation is an opportunity to hear from you about whether our revisions to the guidance are helpful, whether the new structure and format is user-friendly, and whether there is anything else you would like to see included. Once we have received all responses to the consultation, we will carefully consider all your views and make any amendments that we consider necessary before publishing the final version.

## What has changed in the revised guidance?

13. The revised guidance has been restructured. Whereas the 2008 guidance was split into a summary and four sections, the revised guidance now contains a preface and seven chapters. We have reduced the number of appendices, moving important information to be included in the main body of the document in order that it does not get overlooked, and replacing lengthy extracts from legislation and other guidance with summaries and hyperlinks throughout the text. The changes in each chapter are outlined below, which explains the source of the information from previously issued or other current government guidance.

### The preface

14. The preface begins by setting out the safeguarding objectives shared by everyone working in the education service, previously contained in 'Section 2: A Shared Objective' in the 2008 guidance.
15. The preface includes information about the status of the guidance, previously set out in the 'Summary' of the 2008 guidance. It summarises the contents of each chapter.
16. The preface then includes a glossary of terms, previously set out in 'Section 1: Introduction and Legislative Framework' of the 2008 guidance. The definitions are taken from Welsh Government Circular No: 12/2007 [Safeguarding Children: Working Together Under the Children Act 2004](#) (2007).

### Chapter 1: The framework for safeguarding in Wales

17. Chapter 1 sets out the legislative and governance frameworks for safeguarding in Wales. This chapter expands on the information previously contained in the 2008 guidance in 'Section 1: Introduction and Legislative Framework' and 'Appendix G'.
18. For clarity, subheadings set out each of the key pieces of legislation, underneath which the duties and requirements of local authorities and governing bodies are set out. For ease of reference, hyperlinks are provided to enable readers to quickly access the relevant sections of the

legislation referred to, rather than providing full excerpts as in 'Appendix G' of the 2008 guidance.

19. Rather than providing a list of relevant guidance as in 'Appendix G' of the 2008 guidance, Chapter 1 provides a summary of each of the key pieces of statutory guidance, to ensure that local authorities and governors can quickly see the relevance of such guidance for them in fulfilling their roles, and access them easily via a hyperlink.
20. A new section called 'Multi-agency safeguarding structures' includes information about provisions in the Social Services and Well-being (Wales) Bill, before the National Assembly of Wales, to enable structural changes to Safeguarding Children Boards and to establish Adult Safeguarding Boards and a National Independent Safeguarding Board. The new section also provides information about changes in relation to Child Practice Reviews and multi-agency professional fora following amendments to the Local Safeguarding Children Boards (Wales) Regulations 2006.
21. Chapter 1 also includes a new section on 'Multi Agency Public Protection Arrangements (MAPPA)', updating the information contained in Chapter 13 of Welsh Government Circular No: 12/2007 *Safeguarding Children: Working Together Under the Children Act 2004* in light of the *MAPPA Guidance 2012* issued by the Ministry of Justice.

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

22. Chapter 2 draws together information previously included across several parts of the 2008 guidance, to set out comprehensively the statutory duties and essential responsibilities for everyone involved in the education service. It begins by setting out key principles, previously contained in 'Appendix D' of the 2008 guidance (pages 65–69).
23. Chapter 2 then goes on to set out the safeguarding roles and responsibilities of local authorities, schools of all kinds and FE colleges, previously contained in 'Section 3: The Framework for Protecting Children from Neglect and Abuse' of the 2008 guidance.

24. Whereas the 2008 guidance repeated many of the responsibilities shared by governing bodies or headteachers/principals/proprietors of different types of education settings in separate sections for each, the new guidance combines these common responsibilities under the new heading 'All schools and further education institutions'. It then lists only the specific differences for those different roles or types of institution under their separate headings.
25. Chapter 2 includes information about the responsibilities of Local Authority Designated Officers (LADOs) for Child Protection and the designated senior person (DSP) for child protection, previously contained in 'Appendix A' and 'Appendix B' of the 2008 guidance.
26. The section on 'Supervision and support' was previously included in 'Appendix F' (pages 92–94) of the 2008 guidance.
27. The new section 'Everyone's responsibilities' draws on the guidance in the [All Wales Child Protection Procedures](#) (pages 39–41). This has been included to emphasise the statutory duties on each individual working in an education setting to raise concerns about child protection.
28. The section on 'Listening to children' (paragraphs 2.94–2.98) and 'Confidentiality' (paragraphs 2.106–2.108) replaces the sections of the same name previously contained in 'Appendix D' of the 2008 guidance (pages 63–65).
29. The section on 'Parent or carer involvement' replaces the section of the same name in 'Section 2: A Shared Objective' of the 2008 guidance (pages 19–20).
30. The section on 'Information sharing' sets out the key principles previously contained in 'Appendix F' of the 2008 guidance; however it replaces the full detail from the remainder of that section (pages 78–87) with a new, shorter section referring readers to the Wales Accord on the Sharing of Personal Information (WASPI) framework for more detailed guidance and standards.

## Chapter 3: Safeguarding responsibilities in specific circumstances

31. Chapter 3 provides a summary of key safeguarding issues about which those in the education service must be aware, and details of where to access further advice and guidance on those issues. Previously this was referred to only as a list of bullet points in 'Appendix D' under the heading 'Safeguarding in Specific Circumstances' (pages 69–70). We decided that for this version of the guidance, we would make this section central to the document rather than a short reference in an appendix, reflecting the equal importance of these issues alongside the other chapters about safe recruitment, vetting arrangements and allegations against staff. Education staff are often uniquely placed to identify welfare concerns or possible abuse at an early stage, and this chapter aims to provide a central reference point for schools, teachers and others in the education service.

The safeguarding issues previously listed as bullet points have been placed in alphabetical order for ease of reference, and for each one the new guidance now provides the following information:

- **definitions and key issues** – explains terminology and summarises the issues for education providers
- **statutory duties and guidance** – sets out the legal duties on education providers and provides hyperlinks to statutory guidance which must be followed
- **risk indicators** – highlights the factors for teachers to look out for which could indicate that a child is at risk
- **responding to concerns** – what to do and where to go if a teacher or school has concerns
- **proactive approaches** – advice on how schools and education settings can take preventative steps to safeguard children, to emphasise the importance of early intervention and prevention as well as reactive procedures in response to concerns.

## Chapter 4: Safer recruitment practice

32. Chapter 4 provides guidance on recruitment and selection best practice to help to deter, reject or identify people who are unsuitable to work with children and young people and ensure that safeguarding is a key part of human resources processes. This chapter updates the guidance previously contained in 'Section 4: Preventing Unsuitable People from Working with Children' of the 2008 guidance under the heading 'Appointment of Staff' (pages 38–39). It replaces Welsh Government Circular No: 34/2002 *Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service*.
33. Chapter 4 also draws on best practice advice issued in England by the Department for Education and Skills, *Safeguarding Children and Safer Recruitment in Education*, in line with the views expressed to us by practitioners about the usefulness of this document.

## Chapter 5: Vetting staff and volunteers under the new disclosure and barring arrangements

34. Chapter 5 provides detailed guidance on the new recruitment and vetting checks to be made in education settings under the Protection of Freedoms Act 2012. This is a non-devolved issue, and is drawn from a range of [guidance issued by the new Disclosure and Barring Service \(DBS\)](#). We have tried to make this section comprehensive, providing information about the background to the changes in 2012, followed by guidance on what checks must or should be undertaken and for which staff, when and how often. It also includes guidance on how to decide whether a person's criminal record is relevant and how to store and handle DBS information.
35. The chapter replaces Part 1 and Part 2 of Welsh Government Circular No: 34/2002 *Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service*. It also replaces Welsh Government Circular No: 02/2003 *Criminal Records Bureau: Basic Facts for School Volunteers*.

## **Chapter 6: Responding to allegations of abuse against teachers and other staff**

36. Chapter 6 updates and replaces Welsh Government Circular No: 018/2009 [\*Reporting Misconduct and Incompetence in the Education Service: Reporting Cases of Misconduct or Professional Incompetence in the Education Service - Revised Reporting Arrangements from 12 October 2009\*](#). It updates the sections on 'Dealing with Allegations of Abuse Against Teachers and Non Teaching Staff in Maintained Schools in Wales' (pages 39–40) in 'Section 4' of the 2008 guidance. It provides an overview of the statutory guidance contained in Welsh Government circular no: 002/2013 [\*Disciplinary and dismissal procedures for school staff\*](#).
37. The section on 'Abuse of trust' replaces the guidance under the same name in 'Appendix D' of the 2008 guidance (page 59).
38. The section on 'Referrals to the General Teaching Council for Wales (GTCW)' replaces paragraphs 4.11–4.14 in 'Section 4' of the 2008 guidance.

## **Chapter 7: Referrals to the Disclosure and Barring Service**

39. Chapter 7 provides a summary of the range of non-devolved [guidance issued by the DBS](#) on the process for making referrals to the DBS when a person is dismissed or removed from work due to harm or the risk of harm they pose, or if they have been cautioned for, or convicted of, a relevant offence.

## **Appendices**

40. The bibliography at Appendix 1 replaces the 'Relevant Guidance' section of 'Appendix G' in the 2008 guidance, listing all the most up-to-date guidance and providing hyperlinks to enable readers to quickly access the references about which they are interested in finding out more.
41. The other appendices contain the model notes previously contained in 'Appendix C' of the 2008 guidance.