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## Preface

Everyone in the education service shares an objective to help keep children and young people safe by contributing to:

- creating and maintaining a safe learning environment for children and young people;
- identifying where there are child welfare concerns and taking action to address them, where appropriate, in partnership with other agencies; and
- the development of children's understanding, awareness, and resilience through the curriculum.

Achieving this objective requires systems designed to:

- prevent unsuitable people from working with children and young people;
- promote safe practice and challenge poor and unsafe practice;
- identify instances in which there are grounds for concern about a child's welfare, and initiate or take appropriate action to keep them safe; and
- contribute to effective partnership working between all those involved with providing services for children and young people.

The purpose of this guidance is to help all education providers to make sure they have effective systems in place to support the achievement of those objectives.

This guidance sets out the responsibilities of local authorities, governing bodies of all maintained schools (references to schools throughout the document also apply to pupil referral units), Further Education institutions (FE institutions) and proprietors of independent schools to have arrangements for exercising their functions with a view to safeguarding and promoting the welfare of children and young people in Wales. It is also relevant for supply agencies which supply staff to the education sector, contractors who work in education establishments responsible for under 18s, as well as other providers of education and training for those under 18.

## The status and content of this guidance

This guidance is issued by the Welsh Ministers in exercise of their powers under [section 175 of the Education Act 2002](#).

Local authorities, governing bodies of maintained schools and FE institutions must have regard to this guidance for the purpose of meeting their duties under [section 175 of the Education Act 2002](#) to exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children. The requirement to 'have regard' means that the guidance must be taken into account and any decision to depart from it, must be justified.

Proprietors of independent schools must have comply with this guidance for the purpose of meeting standards set out in regulations made under [section 157 of the Education Act 2002](#) to exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children.

This document:

- gives guidance about the effect of the duty to have arrangements about safeguarding and promoting the welfare of children introduced by [section 175 of the Education Act 2002](#) which came into force in Wales on 1 September 2006;
- sets out the roles and responsibilities of local authorities, governing bodies, proprietors of independent schools, head teachers, and staff with designated responsibility for child protection in making arrangements to enable people in the education service to play their full part in safeguarding children from abuse and neglect; and
- supplements the guidance in [Safeguarding Children: Working Together Under the Children Act 2004](#), published by the Welsh Government in March 2007, by setting out the infrastructure and arrangements that need to be in place to ensure that people in the education service have the skills, means and training necessary to ensure children are protected from harm.

It does not prescribe detailed procedures, but aims to specify the outcomes that organisations need to secure to enable staff to meet the objective of keeping children safe from harm, and what needs to be done or put in place to achieve this.

**Chapter 1** provides an overview of the legislative and governance frameworks for safeguarding in Wales.

**Chapter 2** sets out the roles and responsibilities of local authorities, schools of all kinds and FE institutions to safeguard and promote the welfare of children. It provides guidance on the organisational and management arrangements which need to be put in place to safeguard children in the education service. It also sets out the safeguarding duties and responsibilities shared by all staff who work in an education setting when faced with concerns about a child's welfare.

**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.

**Chapter 4** provides guidance on safer recruitment and selection in education settings. This includes recruitment and selection best practice, and other human resources processes that help to recruit candidates who have the skills, knowledge and aptitudes to work, whether paid or unpaid, in the education services and help to deter, reject or identify people who are unsuitable.

**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](#), to support the delivery of the recruitment and selection processes set out in Chapter 4. It sets out what checks must or should be undertaken and for which staff, whether paid or unpaid. It replaces *Preventing Unsuitable People from Working with Children and Young Persons in the Education Service* (October 2002) and *Criminal Records Bureau: Basic Facts for School Volunteers* (February 2003).

**Chapter 6** provides guidance on handling allegations of abuse against teachers and other staff or volunteers in the education service. It also sets out the need to refer cases of misconduct and professional incompetence to the General Teaching Council for Wales where the teachers have not harmed, or posed a risk of harm, to children.

Chapter 6 should be read in conjunction with the statutory guidance issued in Welsh Government [Circular 002/2013: Disciplinary and Dismissal Procedures for School Staff](#) which sets out the detailed requirements for governing bodies in relation to disciplinary issues, the procedures for dealing with lesser and gross misconduct allegations and behaviour, and provides specific advice to be followed by school governing bodies where an allegation of abuse is made against a member of staff.

**Chapter 7** sets out the duties on employers and the process for making referrals to the Disclosure and Barring Service when a person is dismissed or removed from work (or would have been if the person had not left, resigned, retired or been made redundant) due to harm or the risk of harm they pose, or if they have been cautioned for, or convicted of, a relevant offence.

**The appendices** that follow include a number of model policies to support this guidance, to be used or adapted as appropriate.



## Glossary of terms

The definitions and concepts below are taken from [Safeguarding Children: Working Together Under the Children Act 2004](#) and are included here for ease of reference and to ensure that common terminology is used to assist in work undertaken between partners.

- Abuse: emotional** The persistent emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional and behavioural development.
- Abuse: neglect** The persistent or severe neglect of a child, or the failure to protect a child from exposure to any kind of danger, including cold, starvation or extreme failure to carry out important aspects of care, resulting in the significant impairment of the child's health or development, including non-organic failure to thrive.
- Abuse: physical** The hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates or induces illness in a child whom they are looking after.
- Abuse: sexual** Forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening, including:
- physical contact, including penetrative or non-penetrative acts;
  - non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities; or
  - encouraging children to behave in sexually inappropriate ways.
- Child in need** A child is a child in need if:
- he/she is unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him/her of services by a local authority;
  - his/her health or development is likely to be significantly impaired, or further impaired, without the provision for him/her of such services; or
  - he/she is disabled.

<b>Child protection</b>	Child protection is a part of safeguarding and promoting welfare. This refers to the activity which is undertaken to protect specific children who are suffering or are at risk of suffering significant harm as a result of abuse or neglect.
<b>Children</b>	A child is anyone who has not yet reached their 18th birthday. 'Children' therefore means 'children and young people' throughout. The fact that a child has become sixteen years of age is living independently or is in Further Education, or is a member of the armed forces, or is in hospital, or in prison or a young offenders institution does not change their status or their entitlement to services or protection under the Children Act 1989. Section 60 of the Safeguarding Vulnerable Groups Act 2006 defines a Child as "a person who has not attained the age of 18".
<b>Development</b>	Physical, intellectual, emotion, social or behavioural development.
<b>Harm</b>	Ill-treatment or the impairment of health or development, including, for example, impairment suffered from seeing or hearing the ill-treatment of another.
<b>Health</b>	Physical or mental health.
<b>Local authority</b>	A county council or county borough council.
<b>Regulated activity relating to children</b>	<p>Regulated activity relating to children is a term which is defined in law and used to describe an activity which involves working with children, whether this is in a paid or unpaid capacity.</p> <p>In general terms, regulated activity relating to children comprises of:</p> <ul style="list-style-type: none"> <li>• Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice / guidance on well-being, or drive a vehicle only for children</li> <li>• Work for a limited range of establishments ('specified places') with opportunity for contact: e.g. schools, children's homes, childcare premises. This does not include work by supervised volunteers</li> <li>• Please note that work under either of the above is regulated activity only if done regularly. <a href="#">Statutory guidance for supervision</a> is available from the Department for Education website.</li> </ul>

- Relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional
- Registered childminding and foster-carers
- Moderating online forums or chat rooms provided mainly for children where the person has access to the content and contact with users of the service.

**Relevant conduct**

Relevant conduct is an action or inaction that has harmed or placed a child or vulnerable adult at risk of harm. This is a legal term which is defined for both Children and Vulnerable Adults under Schedule 3 of the Safeguarding Vulnerable Group Act 2006.

**Safeguarding and Promoting the welfare of children**

- Protecting children from abuse and neglect;
- Preventing impairment of their health or development; and
- Ensuring that they receive safe and effective care; ... so as to enable them to have optimum life chances.

**Significant harm**

Section 31(10) of the Children Act 1989 states that “where the question of whether harm suffered by a child is significant turns on the child’s health or development, his health or development shall be compared with that which could reasonably be expected of a similar child”.

**Welfare and Well-being**

There is no statutory definition. The Children Act 1989 introduced the welfare checklist that a court shall have regard to in certain circumstances. The 1989 Act states that a “court shall have regard in particular to:

- the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding);
- his physical, emotional and educational needs;
- the likely effect on him of any change in his circumstances;
- his age, sex, background and any characteristics of his which the court considers relevant;
- any harm which he has suffered or is at risk of suffering;
- how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs;
- the range of powers available to the court under this Act in the proceedings in question.”

# Chapter 1: The framework for safeguarding in Wales

## Statutory duties and guidance on safeguarding

### Section 175 of the Education Act 2002

1.1 All schools, including independent schools, and Further Education (FE) institutions have statutory duties to exercise their functions in a way that takes into account the need to safeguard and promote the welfare of children. This is a statutory duty for local authorities and governing bodies of maintained schools and FE institutions under [section 175 of the Education Act 2002](#). It also applies to proprietors of independent schools by virtue of regulations made under [section 157 of the Education Act 2002](#).

1.2 The arrangements that local authorities, schools, and FE institutions have in place need to provide for two aspects to safeguarding and promoting the welfare of children. They are:

- arrangements to take all reasonable measures to ensure that risks of harm to children's welfare are minimised; and
- arrangements to take all appropriate actions to address concerns about the welfare of a child, or children, working to agreed local policies and procedures in full partnership with other local agencies.

1.3 In deciding what arrangements must be made to meet their duties under [section 175](#), local authorities and governing bodies must have regard to guidance given by the Welsh Government. This includes the guidance set out in this document. Proprietors of Independent schools must comply with this guidance to meet the welfare, health and safety standards prescribed in regulations under section 157 of the Education Act 2002.

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

1.5 Local authorities, governing bodies, and proprietors also need to be able to show that they have considered whether children, including individual children, in their area or establishment have any specific safeguarding needs in addition to those covered by guidance, and if so, that they have policies and procedures in place to meet those needs.

1.6 Failure to have arrangements in place as required by [section 175](#), or regulations made under [section 157](#) of the Education Act 2002, or to have regard to this guidance, may be grounds for the Welsh Ministers to take action against local authorities, governing bodies, or proprietors of independent schools.

1.7 All educational establishments, independent schools and local authorities are subject to inspection by Estyn and, in some cases, the Care and Social Services Inspectorate for Wales (CSSIW). The establishment's performance in regard to its responsibility to safeguard and promote the welfare of children in accordance with the relevant legislation and guidance will form part of the relevant inspectorate's judgement of the establishment's overall performance. Performance in this area will not be judged solely on the existence of procedures, but also on their effectiveness in safeguarding children from harm.

1.8 The responsibility for making sure these arrangements are in place is placed on the local authority, on the governing bodies of maintained schools and FE institutions, and on the proprietors of independent schools. There is no direct liability on individuals except where the proprietor of an independent school happens to be an individual.

1.9 Although the legislation does not put duties on head teachers or other members of staff, and does not make them liable for a failure to have arrangements or to have regard to Welsh Government guidance, head teachers and other members of staff are responsible for carrying out their duties in compliance with the arrangements made by the local authority, governing body, or proprietor. Enforcing individuals' compliance with those arrangements is a matter for the employer under disciplinary procedures.

### **Common law duty of care**

1.10 The provisions of [section 175](#) underpin and reinforce the existing responsibility of local authorities, governing bodies and proprietors for safeguarding and promoting the welfare of children as part of fulfilling their common law duty of care towards the children for whom their organisation or establishment is responsible.

### **Children Act 1989**

1.11 [Section 17 of the Children Act 1989](#) places a duty on local authorities to safeguard and promote the welfare of children within their area who are in need and to provide a range and level of services appropriate to those children's needs.

1.12 [Section 27 and 28 of the Children Act 1989](#) requires local authorities and other organisations to assist in the exercise of functions, including those under section 17.

1.13 [Section 47 of the Children Act 1989](#) requires local authorities to make child protection enquiries where they are informed a child who is living or found in their area is subject to an emergency protection order, or is in police protection, or if they have reasonable cause to suspect a child in their area is suffering or is likely to suffer significant harm. It also requires local authorities to decide, along with other organisations, what action they should take to safeguard or promote the child's welfare.

## Children Act 2004

1.14 [Section 25 of the Children Act 2004](#) strengthens the arrangements for protecting and promoting the welfare of children and young people. For the first time it places a duty on all local authorities in Wales to make arrangements to promote co-operation with a view to improving the well being of children in their area, in relation to:

- physical and mental health and emotional well-being;
- protection from harm and neglect;
- education, training and recreation;
- the contribution made by them to society; and
- social and economic well-being.

1.15 [Section 28 of the Children Act 2004](#) also requires the following to make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children in Wales:

- a local authority;
- a Local Health Board;
- the NHS Trust, all or most of whose hospitals, establishments and facilities are situated in Wales;
- the police authority and chief officer of police for a police area in Wales;
- the British Transport Police Authority, so far as exercising functions in relation to Wales;
- a local probation board for an area in Wales;
- a youth offending team for an area in Wales;
- the governor of a prison or secure training centre in Wales (or, in the case of a contracted out prison or secure training centre, its director); and
- any person to the extent that he is providing services pursuant to arrangements made by a local authority in Wales under [section 123\(1\)\(b\) of the Learning and Skills Act 2000 \(c.21\) \(youth support services\)](#).

## The Equality Act 2010

1.16 [The Equality Act 2010](#) imposes statutory duties upon local authorities and educational establishments. All schools in Wales, irrespective of how they are funded or managed, have obligations under the Equality Act 2010, as employers, bodies which carry out public functions and service providers.

1.17 There are general duties under the Act that the school must fulfil but there are specific schools provisions in the Equality Act 2010 (Part 6) which prohibit schools from discriminating against, harassing or victimising:

- Prospective pupils (in relation to admissions arrangements)
- Pupils at the school (including those absent or temporarily excluded).
- Former pupils (if there is a continuing relationship based on them having been a pupil at the school).

1.18 Local authorities in Wales have obligations under the schools provisions where they are the responsible body for the school, for example if they are the admissions authority for the school. Local authorities also have obligations as service providers and bodies carrying out public functions. Further education providers also have obligations under the Act. The Equality and Human Rights Commission has produced [guidance for schools](#) and [guidance for further education providers](#) giving advice on the specific responsibilities under the Equality Act.

### **‘Working Together Under the Children Act 2004’**

1.19 [Safeguarding Children: Working Together Under the Children Act 2004](#) is statutory guidance issued by the Welsh Government which sets out clear advice for the following legislative arrangements:

- the role and responsibilities of different agencies and practitioners;
- the way in which joint working arrangements should be agreed, implemented and reviewed through the mechanism of Local Safeguarding Children Boards;
- the processes which should be followed when there are concerns about a child; and
- the action which should be taken to safeguard and promote the welfare of children who are suffering, or at risk of suffering, significant harm.

1.20 All statutory partners on Local Safeguarding Children Boards and others whose work brings them into contact with children and families must take the guidance into account and, if they decide to depart from it, have clear reasons for doing so. This is also relevant to those working in the statutory, voluntary and independent sectors.

### **The All-Wales Child Protection Procedures**

1.21 The [All Wales Child Protection Procedures](#) reflect the legislative arrangements set within Safeguarding Children: Working Together under the Children Act 2004, and are essential for all individuals and agencies working with children and families, or with adults who may pose a risk to children, across professions, agencies and departments, and in the statutory, voluntary and independent sectors. The Procedures set out a framework within which individual child protection referrals, actions, decisions and plans are made and carried out. They are an integral part of the agenda for safeguarding and promoting the welfare of children.

1.22 The Procedures are based on the fundamental principle that the protection of children from harm is the responsibility of all individuals and agencies working with children and families, and with adults who may pose a risk to children. The effective protection of children cannot be achieved by single agency acting on its own. The procedures clarify how individuals and agencies should communicate and work together effectively in partnership in order to identify vulnerable children, keep them safe from abuse and neglect, and, improve outcomes for them. The Children Act 2004 names the statutory organisations that have a duty to safeguard and promote the welfare of

children and who are constituent members of Local Safeguarding Children Boards (LSCB).

1.23 The implementation of the procedures can only be effective when supported by good practice, and the exercise of professional skill and judgement based on thorough assessment, supported by evidence, and critical analysis. The LSCBs have a pivotal role in the promotion and development of professional skills and in ensuring that safeguarding training is provided. The procedures help provide a framework which allows different agencies to work together to deliver safeguarding policies, but require clear leadership from LSCBs to coordinate and monitor their implementation at a local level.

1.24 The Procedures are produced and kept updated by the [All-Wales Child Protection Procedures Review Group](#), which has a mandate and representation from all the Local Safeguarding Children Boards and partner agencies in Wales. The group also produces other protocols, which are appropriate to an All Wales basis and is a platform for sharing good practice across Wales.

### **The Social Services and Well-Being (Wales) Bill**

1.25 [The Social Services and Well-being \(Wales\) Bill](#) was introduced to the National Assembly for Wales in January 2013. The Bill will be a pivotal delivery mechanism for implementing and strengthening key aspects of the Welsh Government's safeguarding agenda. The scope of the Bill will extend beyond social services boundaries and will promote more effective interagency collaboration. The Bill will also help remove bureaucracy and duplication and will ensure all agencies give sufficient priority to safeguarding. Information on the progress of the Bill through each stage of its passage through the National Assembly for Wales can be found at: [www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?lId=5664](http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?lId=5664).

### **The Children's Rights Framework**

1.26 This section includes information on the duties and legislation in Wales in relation to children's rights.

1.27 Human rights are guarantees that protect individuals and groups from actions that affect their freedom and human dignity. Human rights are things that you are entitled to by simply being a person. They are:

- Universal: the same for everyone
- Indivisible: equally important
- Inalienable: all humans have them and they cannot be taken away

1.28 Children need their own set of rights because:

- they have limited political or social power
- are economically dependent on adults
- they are subject to rules that do not apply to other social groups
- they are particularly vulnerable to ill treatment by adults and those



- more powerful than themselves
- they grow up aware that they have an inferior status to other social groups and age discrimination is a reality for many
- children and young people are key recipients of services
- they often lack a voice in service access and delivery

1.29 The [Children's Rights in Wales](#) website has been designed to help local practitioners, policy makers, managers and strategists develop their understanding of children's rights and how to adopt a children's rights perspective to their work.

### **The United Nations Convention on the Rights of the Child (UNCRC)**

1.30 The [United Nations Convention on the Rights of the Child](#) (UNCRC) is an international agreement that protects the human rights of children under the age of 18. There are 54 articles in the UNCRC. Articles 43-45 are about how adults and governments should work together to make sure all children are entitled to their rights. Articles 1-42 set out how children should be treated. In 1991 it was ratified by the UK Government, which formally agreed to ensure that every child in the UK has all the rights listed in the UNCRC.

### **The Optional Protocols**

1.31 In 2002 the United Nations General Assembly adopted two Optional Protocols as additions to the Convention on the Rights of the Child. These Optional Protocols increase the level of protection of children from involvement in armed conflicts and from sexual exploitation.

- [The Optional Protocol on the sale of children, child prostitution and child pornography](#): This protocol draws special attention to the criminalisation of these serious violations of children's rights and emphasises the importance of fostering increased public awareness and international cooperation in efforts to combat them. The UK Government ratified this protocol in February 2009; and
- [The Optional Protocol on the involvement of children in armed conflict](#): This protocol establishes 18 as the minimum age for compulsory recruitment into a State's armed forces and requires States to do everything they can to prevent individuals under the age of 18 from taking part in hostilities. This was ratified by the UK in June 2003.

### **The seven core aims for children and young people in Wales**

1.32 In 2002 the Welsh Government developed the [Seven Core Aims](#) for children and young people to summarise the UNCRC to help with national and local planning and delivery of services, to ensure that all children and young people:

1. have a flying start in life;
2. have a comprehensive range of education and learning opportunities;
3. enjoy the best possible health and are free from abuse, victimisation

- and exploitation;
4. have access to play, leisure, sporting and cultural activities;
  5. are listened to, treated with respect, and have their race and cultural identity recognised;
  6. have a safe home and a community which supports physical and emotional wellbeing; and
  7. are not disadvantaged by poverty.

1.33 In 2004 the Welsh Government issued [Rights to Action](#) and formally adopted the UNCRC as the underpinning basis when making policies concerning children and young people aged 0 to 25.

### **Getting it Right: The UNCRC Action Plan for Wales**

1.34 In November 2009 the Welsh Government launched its UNCRC action plan, [Getting it Right](#). This set out 16 priorities:

- 1) Tackling child poverty
- 2) Delivering positive outcomes for the most Vulnerable
- 3) Raising Awareness of the UNCRC
- 4) Reducing gap between policy and outcomes
- 5) Improving learning achievement
- 6) Supporting emotional wellbeing
- 7) Improving opportunities to play in safety
- 8) Increasing opportunities for participation in decision making
- 9) Eliminating discrimination against those with disabilities
- 10) Making physical punishment illegal
- 11) Eliminating all forms of bullying
- 12) Ensuring refugee and asylum seekers can claim their rights
- 13) Eliminating discrimination and age based Inequality
- 14) Ensuring those in the most deprived areas can enjoy their rights
- 15) Improving the transparency of budgeting
- 16) Ensuring those in the criminal justice system can claim their rights

1.35 The Welsh Government's [UNCRC Let's Get It Right](#) website provides training materials on the UNCRC for people working with children, and a site for children and young people to learn about their rights.

### **The Rights of Children and Young Persons (Wales) Measure 2011**

1.36 In 2011, Wales became the first administration in the UK to enshrine the UNCRC in domestic law, through [the Rights of Children and Young Persons \(Wales\) Measure 2011](#). The Measure embeds consideration of the UNCRC and the Optional Protocols into Welsh law, and places Welsh Ministers under a duty to have due regard to the requirements of the UNCRC when making their decisions.

## **Funky Dragon – the Children and Young People’s Assembly for Wales**

1.37 [Funky Dragon](#) is the umbrella children and young people led organisation for promoting and supporting the implementation of the UNCRC in Wales. Funky Dragon's main tasks are to make sure that the views of children and young people are heard, particularly by the Welsh Government, and to support participation in decision-making at national level. The opportunity to participate and be listened to is a fundamental right under the United Nations Convention Rights of the Child. Funky Dragon tries to represent as wide a range of children as possible and work with decision-makers to achieve change.

## **The Children's Commissioner for Wales**

1.38 The office of the Children's Commissioner for Wales is an independent children’s rights institution established in 2001. The organisation’s principal aim is to safeguard and promote the rights and welfare of children and young people in Wales. The Children’s Commissioner post was established in two stages, under [Part V of the Care Standards Act 2000](#) and under the [Children’s Commissioner for Wales Act 2001](#).

1.39 The Commissioner’s functions include:

- providing advice and information to children, young people as well as to professionals and other adults who are concerned about the rights and welfare of a child or of children in general;
- offering advice and support to children and young people, helping them to express their views and wishes;
- examining cases where services could have potentially failed a child or children; and
- assisting children and young people – including providing financial assistance and representation in legal proceedings – whose rights have not been respected.

1.40 The Commissioner’s remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children’s rights and welfare and the Commissioner may also make representations to the National Assembly for Wales about any matter affecting the rights and welfare of children in Wales.

1.41 Under the legislation, the Commissioner can:

- review the effects of policies, proposed policies and the delivery of services to children;
- examine in more depth the case of a particular child or children if it involves an issue that has a general application to the lives of children in Wales; and
- require information from agencies or persons acting on their behalf, and require witnesses to give evidence on oath.

1.42 There are three types of report produced by the Children’s Commissioner:

- Annual Report and Accounts;
- reports of formal examinations; and
- reports on particular subjects (e.g. school toilets, school transport, young carers).

1.43 The Children's Commissioner's annual reports have served to highlight particular concerns to government and civil society and set in train some distinct improvements to policy and practice developments as they affect children in Wales. In 2004, the Children's Commissioner published the Clywch Report. This was the culmination of an examination of a particular case concerning allegations of abuse against children in a school setting. The report included a number of recommendations for improvement to procedures around the safeguarding of children in school settings.

1.44 The Children's Commissioner's reports [Telling Concerns](#) on the operation of local authority social services complaints and whistle-blowing procedures and the provision of advocacy services and [Children don't Complain](#), a report on the mirror arrangements within local authorities were influential in terms of focusing attention on the relevant duty bearers on the need to improve policy and practice.

## **Multi-agency safeguarding structures**

1.45 In Wales there are a number of multi-agency structures that have an important role in relation to safeguarding and promoting the welfare of children, many of which will involve input and partnership working with education providers. All staff and governors of schools and further education institutions should be aware of the following safeguarding structures and their responsibilities to engage with them as appropriate and in accordance with relevant statutory guidance set out in each section below.

### **Local Safeguarding Children Boards (LSCBs)**

1.46 [Section 31\(1\) of the Children Act 2004](#) requires each local authority in Wales to establish a Local Safeguarding Children Board (LSCB) for their area, which brings together representatives of each of the main agencies and professionals responsible for helping to protect children from abuse and neglect.

1.47 The partners in an LSCB include:

- the local authority;
- the police;
- the local probation board;
- the youth offending team;
- the Local Health Board;
- any NHS trust providing services in the area of the authority;
- the governor or director of any secure training centre in the area of the authority;
- the governor or director of any prison which ordinarily detains children.

An LSCB may also include representatives of any other relevant persons or bodies which have been approved by other Board members.

1.48 The objectives of an LSCB are to:

- co-ordinate what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in the area of the authority by which it is established; and
- ensure the effectiveness of what is done by each such person or body for those purposes.

1.49 Each local authority takes lead responsibility for the establishment and effective working of its LSCB, although all main constituent agencies are responsible for contributing fully and effectively to the work of the LSCB. LSCBs are accountable for their work to their main constituent agencies, whose agreement is required for all work which has implications for policy, planning and the allocation of resources. Each Board partner retains their own existing lines of accountability for safeguarding and promoting the welfare of children by their services. The LSCB does not have a power to direct other organisations.

1.50 Chapter 4 of [Safeguarding Children: Working Together Under the Children Act 2004](#) provides full guidance on requirements for LSCB membership, functions, scope of interest, organisation and governance, accountability, chairing and ways of working.

### **Safeguarding Children and Adults Boards**

1.51 The findings of a [Joint Inspection of Local Safeguarding Children Boards](#) in October 2011 provided evidence that LSCBs could not demonstrate that they were performing effectively. The [Simpson Review](#) of local authority service delivery recognised that partnership and collaboration would be more sustainable on a larger geographic footprint. While some LSCBs have taken positive action to collaborate, and some have formally merged, there are issues around sustainability and the current arrangement that provides for 22 LSCBs compounds resource and capacity issues and results in considerable duplication.

1.52 The [Social Services and Well-being \(Wales\) Bill](#) makes provision to enable structural changes to safeguarding children boards and to establish safeguarding adults boards. Information about the passage of the Bill can be found on the website of the [National Assembly for Wales](#).

### **National Independent Safeguarding Board**

1.53 There is currently no national organisation with oversight for safeguarding and protection. [The Social Services and Well-being \(Wales\) Bill](#) includes provision to establish a National Independent Safeguarding Board, to drive up standards and deliver consistency, demonstrate leadership, promote ownership and provide expert advice on action to strengthen policy and practice.

## Regional Child Protection Forums

1.54 Regional Child Protection Forums have been established across Wales which provide a valuable mechanism for bringing together the different safeguarding agencies that operate in particular areas. Whilst there is no statutory requirement for the establishment of child protection forums, the Welsh Government recognises the significant contribution they make to inter-agency working arrangements and to the development of [common protocols](#) and procedures, a number of which have subsequently been fed into the All-Wales Child Protection Procedures Group.

## Children and Young People's Partnerships

1.55 [Section 25 of the Children Act 2004](#) places a duty of co-operation to improve the well-being of children and young people on local authorities, relevant partners and such other bodies as the local authority considers appropriate. The Children Act describes relevant partners of the local authority as being:

- the police authority and the chief officer of police;
- the local probation board;
- the youth offending team;
- the Local Health Board;
- NHS trusts providing services in the area of the authority.

1.56 These partners must co-operate with the authority in the making of partnership arrangements provided for in the Children Act. Local authorities should also involve in their partnership arrangements:

- representatives of schools;
- a representative of the Fire and Rescue Service; and
- relevant voluntary organisations, in recognition of the key part played by non-statutory sector in delivery of services and supporting participation.

1.57 Partnership representatives should be of a sufficiently senior level to be able to speak for their parent bodies in the work of the Partnership. In this context it will be essential to have robust inter-agency governance arrangements to support partnership working. This will require:

- effective leadership by the local authority;
- full engagement of all key partners, including voluntary and other providers;
- clear accountability; and
- trust, shared vision and a commitment to improving outcomes for children and young people across all partners.

1.58 [Stronger Partnerships for Better Outcomes](#), issued in July 2006 sets out the duties of local authorities to take the lead in driving forward partnership working that puts in place effective integrated services for all children and young people.

## Children and Young People's Plans

1.59 [The Children and Young People's Plan \(Wales\) Regulations 2007](#) require that each local authority, after consultation with partners, should publish a Children and Young People's Plan setting out how they will improve the well being of children and young people.

1.60 Welsh Government Circular 31/07, [Shared Planning for Better Outcomes](#), contains statutory guidance for local authorities on preparing and publishing their Children and Young People's Plans.

## Child Practice Reviews

1.61 From 1 January 2013, multi-agency Child Practice Reviews (CPR) replace Serious Case Reviews in Wales, to be undertaken in circumstances of a significant incident where abuse or neglect of a child is known or suspected. The Welsh Government has issued [statutory guidance](#) for all Local Safeguarding Children Boards and their partner agencies, which replaces Chapter 10 of Safeguarding Children: Working Together Under the Children Act 2004.

1.62 The new CPR framework has a number of important features which mark it out from the previous serious case review system:

- it involves agencies, staff and families in a collective endeavour to reflect and learn from what has happened in order to improve practice in the future, with a focus on accountability and not on culpability;
- it has the potential to develop more competent and confident multi-agency practice in the long term, where staff have a better understanding of the knowledge base and perspective of different professionals with whom they work;
- it strengthens the accountability of managers to take responsibility for the context and culture in which their staff are working and to see that they have the support and resources they need;
- it recognises the impact of the tragic circumstances of non-accidental child deaths or serious harm on families and on staff, and provides opportunities for serious incidents to be reviewed in a culture that is fair and just;
- it takes a more streamlined, flexible and proportionate approach to reviewing and learning from what are inevitably complex cases;
- it allows a more constructive and appropriate use of resources than in the previous system and works to shorter timescales;
- it draws on learning from other related review processes and increases compatibility with different review systems;
- it focuses on key learning identified through the review process which results in relevant recommendations and action to improve future practice, recorded in anonymised reports which are published by LSCBs.

1.63 In summary, the CPR framework consists of three inter-related parts, as laid down in the:

- Multi-agency professional forums;
- Concise child practice reviews; and
- Extended child practice reviews.

### Multi-agency professional forums

1.64 Multi-agency professional forums are the foundation for producing organisational learning, improving the quality of work with families and strengthening the ability of services to keep children safe. A multi-agency professional forum is defined in the [Local Safeguarding Children Boards \(Wales\) Regulations 2006 as amended 2012](#) as:

*A forum, arranged and facilitated by the Board for practitioners and managers from representative bodies and other bodies or persons deemed relevant by the Chair of the Board, with the purpose of learning from cases, audits, inspections and reviews in order to improve future child protection policy and practice.*

1.65 The forums have two main purposes:

- **Case learning:** facilitated discussion, consultation and reflection by practitioners, managers or core groups, using a systems approach to examining and analysing individual current or no longer active cases. These may include complex cases where there have been good outcomes, current cases that have become stuck, or cases which cause professional concern or interest that do not meet the criteria for concise or extended child practice reviews;
- **Dissemination of new knowledge and findings:** from multi-agency child protection audits and from child practice reviews, inspections or other local or national sources, in order to ensure continuing local multi-professional learning and development.

### Concise child practice reviews

1.66 The criteria for concise reviews are laid down in the [Local Safeguarding Children Boards \(Wales\) Regulations 2006 as amended in 2012](#). They state that an LSCB must undertake a concise child practice review in any of the following cases where, within the area of the LSCB, abuse or neglect of a child is known or suspected and the child has:

- died; or
  - sustained potentially life threatening injury; or
  - sustained serious and permanent impairment of health or development;
- and
- the child was neither on the child protection register nor a looked after child on any date during the 6 months preceding:
    - the date of the event referred to above; or
    - the date on which a local authority or relevant partners identifies



that a child has sustained serious and permanent impairment of health and development.

### **Extended child practice reviews**

1.67 The criteria for extended reviews are laid down in the [Local Safeguarding Children Boards \(Wales\) Regulations 2006](#) as amended 2012. They state that an LSCB must undertake an extended child practice review in any of the following cases where, within the area of the LSCB, abuse or neglect of a child is known or suspected and the child has:

- died; or
  - sustained potentially life threatening injury; or
  - sustained serious and permanent impairment of health or development;
- and*
- the child was on the child protection register and/or was a looked after child (including a care leaver under the age of 18) on any date during the 6 months preceding:
    - the date of the event referred to above; or
    - the date on which a local authority or relevant partner identifies that a child has sustained serious and permanent impairment of health and development.

### **Multi-agency public protection arrangements (MAPPA)**

1.68 Under [Sections 325-327 of the Criminal Justice Act 2003](#), there is a statutory duty on the Police, Probation and the Prison Service (the 'Responsible Authorities') to establish arrangements to assess and manage and reduce the risk presented by relevant sexual and violent offenders in order that re-offending is reduced and the public are protected. This includes individuals who are considered to pose a risk, or potential risk of harm to children.

1.69 [Multi Agency Public Protection Arrangements \(MAPPA\)](#) provide a national framework to meet these statutory duties. This is done by the sharing of information and the establishment of coordinated risk management plans that allow offenders to be effectively managed.

1.70 A range of other agencies that have dealings with offenders are under a duty to co-operate with the Responsible Authorities. These 'Duty to Co-operate Agencies' include:

- Local Authorities
- NHS Trusts and Local Health Boards
- Jobcentre Plus
- Youth Offending Teams
- Registered Social Landlords who accommodate MAPPA offenders
- Local Housing Authorities
- Electronic Monitoring providers; and
- UK Border Agency

1.71 Offenders are referred to the MAPPA process following conviction for a relevant offence. Following reference to MAPPA, a thorough rigorous risk assessment on an individual case basis is undertaken. Most areas now have a Co-ordinator who can be contacted via any of the local Responsible Authorities. The Area MAPPA Strategic Management Board will be in place and comprises of lead managers from Police, Probation and Prison, a number of agencies with a Duty to Co-operate and two Lay Advisors.

1.72 The MAPPA framework identifies three separate, but connected levels at which risk is assessed and managed:

- **Level 1 – ordinary risk management:** this would be where the risks posed by the offender can be managed by one agency without significantly, involving other agencies.
- **Level 2 - local inter-agency risk management:** this is used where significant involvement from more than one agency is required but where either the level of risk or the complexity of managing the risk is not so great as to require referral to level 3.
- **Level 3 - Multi Agency Public Protection Panels (MAPPP):** have powers to disclose information about offenders to schools, voluntary groups and others. This relates to the “critical few” and would include an offender who:
  - is assessed as being a high or very high risk of causing serious harm; and
  - presents risks that can only be managed by a plan which requires close co-operation at a senior level due to the complexity of the case and/or because of the unusual resource commitments it requires; or
  - although not assessed as being a high or very high risk, the case is exceptional because of the likelihood of a high level of media scrutiny and/or public interest in the management of the case and there is a need to ensure that public confidence in the criminal justice system is sustained.

1.73 [The Multi Agency Public Protection Arrangements \(MAPPA\) Guidance 2012](#) is a concise multi agency document which effectively supports the management of MAPPA offenders. A range of supporting [appendices and forms](#) are also available.

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

### Key principles

2.1 In accordance with the principles contained in [Safeguarding Children: Working Together Under the Children Act 2004](#), all work to safeguard and promote the welfare of children should be:

- **child centred:** Some of the worst failures of the system have occurred when professionals have lost sight of the child and concentrated instead on their relationship with the adults. The child should always be seen by the practitioner and kept in focus throughout work with the child and family. The child's voice should be heard and account taken of their perspective and their views;
- **rooted in child development:** Those working with the children should be informed by a developmental perspective which recognises that, as a child grows, they continue to develop their skills and abilities. Each stage from infancy, through middle years to adolescence lays the foundation for more complex development. Plans and interventions to safeguard and promote the child's welfare should be based on a clear assessment of the child's developmental progress and the difficulties a child may be experiencing. Planned action should also be timely and appropriate for the child's age and stage of development;
- **outcome focused:** The purpose of all interventions should be to achieve the best possible outcomes for each child recognising each is unique. These outcomes should contribute to the key outcomes set out for all children in the Children Act 2004. When working directly with a child, any plan developed for the child and their family or carer should be based on an assessment of the child's developmental needs and the parents or carers capacity to respond to these needs within their community contexts. This plan should set out the planned outcomes for each child and at review the actual outcomes should be recorded;
- **holistic in approach:** Having an holistic approach means having an understanding of a child within the context of the child's family (parents or carers and the wider family) and of the educational setting, community and culture in which he or she is growing up. The ultimate aim is to understand the child's developmental needs within the context of the family and to provide appropriate services which respond to those needs. The interaction between the developmental needs of children, the capacities of parents or carers to respond appropriately to those needs and the impact of wider family and environmental factors on children and on parenting capacity requires careful exploration during an assessment. The analysis of the child's situation will inform planning and action in order to secure the best outcomes for the child, and will inform the subsequent review of the effectiveness of actions taken and services provided. The

child's context will be even more complex when they are living away from home and looked after by adults who do not have parental responsibility for them;

- **founded on equality of opportunity:** Equality of opportunity means that all children have the opportunity to achieve the best possible development, regardless of their gender, ability, ethnicity, circumstances or age. Some vulnerable children may have been particularly disadvantaged in their access to important opportunities and their health and educational needs will require particular attention in order to optimise their current welfare as well as their long-term outcomes in young adulthood;
- **built on strengths as well as identifying and addressing difficulties:** Identifying both strengths and difficulties within the child, his or her family and the context in which they are living is important, as is considering how these factors have an impact on the child's health and development. Too often it has been found that a deficit model of working with families predominates in practice, and ignores crucial areas of success and effectiveness within the family on which to base interventions. Working with a child or family's strengths becomes an important part of a plan to resolve difficulties;
- **multi/inter-agency in its approach:** From birth, there will be a variety of different agencies and programmes in the community involved with children and their development, particularly in relation to their health and education. Multi and inter-agency work to safeguard and promote children's welfare starts as soon as there are concerns about a child's welfare, not just when there are questions about possible harm;
- **a continuing process:** Understanding what is happening to a vulnerable child within the context of his or her family and the local community, and taking appropriate action are continuing and interactive processes and not single events. Action and services should be provided according to the identified needs of the child and family in parallel with monitoring and reviewing assessment where necessary. It is not necessary to await completion of the assessment process. Immediate and practical needs should be addressed alongside more complex and longer term ones;
- **informed by evidence:** Effective practice with children and families requires sound professional judgements which are underpinned by a rigorous evidence base and draw on the practitioner's knowledge and experience;
- **alert to children's welfare:** All those who have contact with children should be able to recognise, and know how to act upon, evidence that a child's health or development is or may be being impaired and especially when they are suffering or at risk of suffering significant harm. Practitioners should be mindful always of the welfare and safety of children – including unborn children and older children – in their work. All professionals and especially those in education, health and social care

should be able to recognise situations where a child needs extra help or support to prevent impairment to his or her health or development or possible indicators of abuse or neglect in children. All staff should be mindful always of the welfare and safety of children in their work, and familiar with the core standards set out in the National Service Framework for Children, Young People and Maternity Services; and

- **involve children and families:** In the process of finding out what is happening to a child it is important to listen and develop an understanding of his or her wishes and feelings. The importance of developing a co-operative working relationship is emphasised, so that parents or carers feel respected and informed, they believe agency staff are being open and honest with them, and in turn they are confident about providing vital information about their child, themselves and their circumstances. The consent of children, young people and their parents or carers should be obtained when sharing information unless to do so would place the child at risk of harm. Decisions should also be made with their agreement, whenever possible, unless to do so would place the child at risk of harm.

2.2 The following sections set out the specific safeguarding roles and responsibilities of the local authority, the governing body of schools and FE institutions, the head teacher or principal and proprietors of independent schools.

## **Local authorities**

2.3 The welfare of children is a corporate responsibility of the entire local authority. Other public bodies within Wales must also discharge their duties having regard to the need to safeguard and promote the welfare of children in Wales under [section 28 of the Children Act 2004](#).

2.4 Local authorities have responsibilities at three levels:

**Strategic** - planning, co-ordinating delivery of services, and allocating resources; working in partnership with other agencies, (e.g. health care professionals, youth offending teams and Local Safeguarding Children Boards);

**Support** - ensuring that maintained schools are aware of their responsibilities for child protection; monitoring their performance; making available appropriate training, model policies and procedures; providing advice and support; and facilitating links and co-operation with other agencies. Many authorities also provide these services to independent schools and FE institutions. Authorities are free to do that, and to charge appropriate fees for services and training provided to independent schools and FE institutions; and

**Operational** - taking responsibility for safeguarding children who are excluded from school, or who have not obtained a school place, for example children in Pupil Referral Units or being educated by the authority's home tutor service; involvement in dealing with allegations of abuse against staff and volunteers; and ensuring arrangements are in place to prevent unsuitable staff and volunteers from working with children.

2.5 The Children Act 2004 has strengthened the role of local authorities in the provision of education as corporate parents. An amendment to the [Children Act 1989, Section 22](#) at (3A), inserts a requirement that a local authority's duty to safeguard and promote the welfare of a child looked after by them includes in particular a duty to promote the child's educational achievement.

2.6 [Section 2 of the Children Leaving Care Act 2000](#) inserted a new section 23B into the Children Act 1989 to place a responsibility on local authorities to safeguard and promote the child's welfare unless they are satisfied that his or her welfare does not require it.

2.7 Responsibility for safeguarding children who are educated at home by their parents or carers, or who are employed, is not solely an education issue. These matters are best dealt with by a multi-agency approach and should be addressed in locally agreed procedures in accordance with the principles set out in [Safeguarding Children: Working Together Under the Children Act 2004](#).

2.8 Authorities can draw on strategic support and advice from their Local Safeguarding Children Board about the role of local authorities and those of their relevant partners in co-operating to improve well-being under the [Children Act 2004](#).

2.9 Specific measures that local authorities should have in place in each of the above areas are set out as follows.

### **Strategic responsibilities**

2.10 At this level the local authority should:

- allocate resources to support the work of the Local Safeguarding Children Board (LSCB);
- ensure that a senior officer represents the local authority on the LSCB and that the authority makes an effective contribution to planning co-ordinated services to meet the needs of children;
- work with other agencies to put in place and support effective partnership working;
- allocate resources to enable the authority and maintained schools to discharge their responsibilities for safeguarding children satisfactorily;

- liaise with the appropriate diocesan authorities in respect of arrangements for aided schools in their area;
- monitor the compliance of maintained schools with this guidance, in particular in regard to the existence and operation of appropriate policies and procedures, and the training of staff, including the senior person with designated responsibility for child protection. Bring any deficiencies to the attention of the governing body of the school and advise upon the action needed to remedy them;
- take action to resolve any inter-agency problems as soon as they are identified; and
- play a full part in multi-agency Child Practice Reviews (CPR) in accordance with [Protecting Children in Wales: Guidance for Arrangements for Multi-Agency Child Practice Reviews](#); review and revise procedures and training in light of the findings of those reviews, and disseminate information about relevant findings to the people with designated responsibility for child protection in the authority and maintained schools. (For more information, see section on Child Practice Reviews in Chapter 1.)

### **Support responsibilities**

2.11 At this level the local authority should:

- make sure that induction training for all new staff in the authority and staff who will work with children in maintained schools includes training on safeguarding children that will enable them to fulfil their responsibilities in respect of child protection effectively, and that suitable refresher training to keep staff knowledge and skills up to date is also available. Governors of maintained schools should also receive appropriate training on their safeguarding responsibilities;
- make sure that further training in inter-agency working to safeguard children that is provided by the LSCB, or meets the standards set out by the LSCB, is available for all staff appointed to have designated lead responsibility for child protection, and that suitable refresher training that will keep the skills and knowledge of senior designated staff up to date is also available and meets the standard set by the LSCB;
- maintain a record of all designated persons and governors nominated by the governing body to take responsibility for child protection issues within schools in their area, the training undertaken by those individuals together with the dates on which training was undertaken;
- provide model policies and procedures for maintained schools on all aspects of child protection, including the vetting of new staff and volunteers, and procedures for dealing with allegations of abuse against staff and volunteers. The authority should ensure that such policies and

procedures comply with Welsh Government guidance (in particular the model policy and statutory guidance issued in [Disciplinary and Dismissal Procedures for School Staff](#)) and LSCB agreed procedures for interagency working as appropriate. A model child protection policy is at Appendix 2;

- provide advice and support for maintained schools, and senior designated staff in those establishments about dealing with individual cases: where necessary acting on their behalf to resolve any difficulties with, or obtain appropriate support from, LSCB partner agencies; and
- have in place arrangements to support staff in the authority and maintained schools who have designated lead responsibility for child protection, and to encourage and foster a good understanding and working relationship between them, children's social workers, and staff in other agencies involved in safeguarding children, to develop effective partnership working.

## **Operational responsibilities**

2.12 At this level the local authority should:

- operate safe recruitment procedures and make sure that all appropriate checks are carried out on new staff and unsupervised volunteers who will work with children, including Disclosure and Barring Service checks in line with the guidance contained in Chapter 4;
- have arrangements in place to safeguard and promote the welfare of children who have not been allocated a school place, or are excluded from school, including those being educated in pupil referral units, or via the home tutor service. As noted above, safeguarding the welfare of children who are educated at home by parents or carers, or who are employed, are multi-agency responsibilities that should be addressed in locally agreed inter-agency procedures in accordance with the principles set out in [Safeguarding Children: Working Together Under the Children Act 2004](#). Local authorities should seek to build effective relationships with home educators that function to safeguard the educational interests and welfare of children and young people. Doing so will provide parents with access to any support that is available and allow authorities to understand the parents' educational provision; for further information refer to Chapter 6 of [Welsh Government Circular 47/2006: Inclusion and Pupil Support](#);
- ensure procedures in place for dealing with allegations of abuse against members of staff in the authority, schools and FE institutions in line with Welsh Government guidance. For schools, the Welsh Government has issued guidance in Circular 002/2013 'Disciplinary and Dismissal Procedures for School Staff' which includes a model policy;
- work with schools and LSCB partner agencies to ensure that allegations are dealt with quickly, fairly and consistently; and



- ensure that the authority's staff (including any staff carrying out functions on behalf of the authority) who work with children receive training that equips them to carry out their responsibilities for child protection effectively.

### **Local Authority Designated Officers (LADOs) for Child Protection**

2.13 All local authorities should identify a senior officer with lead responsibility for child protection, known as a Local Authority Designated Officer (LADO) for Child Protection, to undertake and manage the provision of the above functions and services. The remit of the LADO might include responsibility for:

- **Accountability**
  - representation of local authority at local and national level; and
  - personal training to be able to fulfil the role.
- **Co-ordination:**
  - staff structure to deliver responsibilities
  - funding for local authority activities.
- **Development and planning**
  - corporate commitment to multi-agency work;
  - local authority policy, overview of local authority activities;
  - development of the work of the local authority: inclusion of child protection in all plans;
  - children services plans and similar;
  - contribution to the work of the LSCB and its subgroups;
  - development of single agency procedures and practice guidance.
- **Training and awareness-raising**
  - single agency, multi-agency and inter-agency; and
  - written guidance.
- **Development of good working relationships and partnerships:**
  - involvement in joint decision-making through representation on the local Children and Young People's Partnership through membership of the Local Safeguarding Children Board or one of its sub groups;
  - maintaining supportive and effective working relationships within the local authority and between partner agencies;
  - network of schools' designated individuals with responsibility for child protection;
  - relationships with non-local authority educational establishments and organisations including independent sector, FE institutions, Careers Wales and training institutions; and
  - relationships with voluntary groups.

- **Provision of advice, guidance and support:**
  - casework, Court appearances, legal issues;
  - new legislation;
  - managing reports of missing pupils;
  - allegations against staff; and
  - specific circumstances of abuse e.g. female genital mutilation, self harm, forced marriage, fabricated or induced illness, domestic violence, child on child abuse, sexual exploitation, and young migrants.
  
- **Promoting safe and positive environments**
  - recruitment and selection;
  - curriculum (formal and informal);
  - code of conduct for staff;
  - confidentiality, record keeping, transfer of records;
  - support for the pupil at risk to enable full use of educational opportunities; and
  - issues in residential schools.
  
- **Liaison with personnel services provider**
  - safe recruitment and selection procedures, vetting arrangements; and disciplinary procedures and allegations of abuse against staff.
  
- **Monitoring**
  - procedures and policies compliance in each school;
  - schools' designated individuals together with their training record;
  - schools' designated governor together with their training record;
  - contribution to work of LSCB and quality assurance groups;
  - referrals to social services department (numbers, quality and response);
  - level of child protection activity within schools and links to training received;
  - attendance at case conferences;
  - children on the child protection register;
  - compliance with Welsh Government guidance, LSCB procedures or standards;
  - implementation of recommendations of multi-agency Child Practice Reviews (previously Serious Case Reviews) or similar; and
  - use of restraint.
  
- **Specific issues which may have a child protection dimension:**
  - health and safety, restraint, bullying;
  - school trips, transport of pupils, residential visits, school exchange visits;
  - child employment, work experience;
  - taking and using images of children;
  - pupils without a school place;

- showers and changing arrangements;
- parents and other volunteer helpers;
- first aid and administration of medicine;
- community focused school arrangements and after school clubs;
- internet use;
- children with parents/carers who have mental illness or disability;
- children with parents/carers who misuse drugs and/or alcohol;
- children in residential schools outside the local authority.

## **All schools and further education institutions**

### **Governing bodies/proprietors**

2.14 Governing bodies of maintained schools, governing bodies (Corporations) of further education institutions, and proprietors of independent schools should all ensure that their respective organisations:

- have effective child protection policy and procedures in place that are:
  - a. in accordance with local authority guidance and locally agreed inter-agency procedures;
  - b. inclusive of services that extend beyond the school day (e.g. boarding accommodation where provided, community activities on school premises, etc)
  - c. reviewed at least annually;
  - d. made available to parents or carers on request;
  - e. provided in a format appropriate to the age and understanding of children, particularly where schools cater for children with additional needs;
- have up to date and agreed procedures for dealing with allegations of abuse against members of staff and volunteers that comply with relevant legislation, Welsh Government statutory guidance and statutory model policy and locally agreed inter-agency procedures;
- operate safe recruitment procedures that take account of the need to safeguard children and young people, including
  - a. arrangements that ensure that all appropriate checks are carried out on new staff and unsupervised volunteers who will work with children, including relevant Disclosure and Barring checks in line with the guidance contained in Chapter 4;
  - b. procedures for dealing with allegations of abuse against members of staff that comply with locally agreed inter-agency procedures and for schools have procedures in place that comply with Welsh Government statutory guidance and policy;
- ensure that the head teacher/ principal and all other permanent staff and volunteers who work with children undertake appropriate training to equip them with the knowledge and skills that are necessary to carry out their

responsibilities for child protection effectively, which is kept up to date by refresher training.

- give clear guidance to temporary staff and volunteers providing cover during short term absences and who will be working with children and young people on the organisation's arrangements for child protection and their responsibilities;
- ensure that the governing body/ proprietor remedies without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to its attention;
- designate a governor to:
  - a. take responsibility for child protection matters;
  - b. ensure the governing body reviews the school's policies and procedures annually;
  - c. be the "link governor" to maintain contact with the statutory authorities in relation to child protection staff disciplinary cases as set out in Welsh Government guidance [Circular 002/2013: Disciplinary and Dismissal Procedures for School Staff](#); and
- ensure that the governing body/ proprietor undertakes an annual review of its safeguarding policies and procedures and how the above duties have been discharged.

### **Headteachers/principals**

2.15 Head teachers and principals of all schools and FE institutions should ensure that:

- child protection policies and procedures adopted by the governing body or proprietor are fully implemented, and followed by all staff;
- sufficient resources and time are allocated to enable the designated person and other staff to discharge their responsibilities, including taking part in strategy discussions and other inter-agency meetings, and contributing to the assessment of children; and
- all staff and volunteers understand the procedures for and feel able to raise concerns about poor or unsafe practice in regard to children, and such concerns are addressed sensitively and effectively in a timely manner in accordance with agreed Welsh Government [Procedures for Whistleblowing in Schools and Model Policy](#).

### **The Designated Senior Person (DSP) for child protection**

2.16 Each school or FE institution should appoint a Designated Senior Person (DSP) with lead responsibility for managing child protection issues and cases. This involves providing advice and support to other staff, making

referrals to and liaising with the local authority, LSCB and working with other agencies where necessary. The DSP must keep the head teacher informed of all child protection issues in the establishment.

2.17 The DSP need not be a teacher but must be a senior member of the school or FE institution's leadership team with the status and authority within the organisation to carry out the duties of the post, including committing resources to child protection matters, and where appropriate directing other staff. Dealing with individual cases may be a responsibility of the education welfare officer or other student support arrangements, but it is important that a senior member of staff takes responsibility for this area of work.

2.18 In many organisations a single designated person will be sufficient, but a deputy should be available to act in the designated person's absence. In establishments which are organised on different sites or with separate management structures, there should be a designated person for each part or site. In large organisations or those with a large number of child protection concerns, it may be necessary to have a number of deputies to deal with the workload.

2.19 The establishment must also make arrangements for covering the role of the DSP when that person is unavailable. In many cases, there will be a deputy DSP in place and in larger schools this might consist of a team of staff working together.

2.20 The DSP does not have to be an expert in the area of child protection but takes responsibility for the establishment's child protection practice, policy, procedures and professional development.

2.21 The head teacher should ensure that the DSP is given sufficient time and resources to carry out the role, which should be explicitly defined in the post holder's job description. This includes time to attend and provide reports and advice to case conferences and other interagency meetings as required.

## Training

2.22 The DSP should know how to recognise and identify the signs of abuse and know when it is appropriate to make a referral to the relevant investigating agencies.

2.23 Governing bodies/ proprietors are responsible for ensuring that the DSP undertakes training in inter-agency working that is provided by, or to standards agreed by, the LSCB, and refresher training to keep his/her knowledge and skills up to date, in addition to basic child protection training.

2.24 The DSP should have a working knowledge of how Local Safeguarding Children Boards operate, the conduct of a child protection case conference, and be able to attend and contribute to these effectively when required to do so. A key role for the DSP is to ensure that the concerns and views of the school or FE institution are represented and taken into account.

2.25 The DSP must be able to obtain access to resources and attend any relevant or refresher training courses at appropriate intervals.

2.26 It is the role of the DSP, working with the head teacher, to ensure all staff and volunteers:

- have access to and understand the school's child protection policy, especially new or part time staff who may work with different educational establishments;
- have induction and refresher training covering child protection, an understanding of safeguarding issues including the causes of abuse and neglect;
- are able to recognise the signs and indicators of abuse;
- know how to respond effectively when they have concerns;
- know how to respond to a disclosure appropriately, and
- know that they have a responsibility to report any concerns immediately as they arise.

2.27 Records should be kept of the dates of the training, details of the provider and a record of staff attendance at the training.

2.28 It is good practice to invite all governors to child protection/ safeguarding training (not just the nominated governor for child protection) so that they all have a basic awareness of child protection. Governing bodies are responsible for ensuring the school's policies and procedures for child protection meet statutory requirements,, and all governors should know what to do if they have concerns about a child.

## Referrals

2.29 The DSP should act as a point of contact and a source of support, advice and expertise within the educational establishment when deciding whether to make a referral by liaising with relevant agencies.

2.30 The DSP should know who the Local Authority Designated Officer (LADO) is, how to contact them and have an understanding of the LADO role in order to work effectively with them.

2.31 The DSP is responsible for making referrals to the relevant agencies about allegations of suspected abuse to the relevant investigating agencies. Where these relate to cases of suspected abuse or allegations of abuse against staff, the process set out in [Welsh Government Circular 002/2013: Disciplinary and Dismissal Procedures for School Staff](#), as it is not the role of the DSP to investigate allegations against staff.

2.32 If an allegation is made about a member of staff to the DSP, the DSP must refer this to the headteacher. If the headteacher receives an allegation about a member of staff, the LADO and the DSP should be informed. If the DSP or the chair of governors receives an allegation about the headteacher, it should be referred directly to the LADO. The chair of governors and the local authority HR department should be informed immediately of allegations made

against school staff.

2.33 The DSP should liaise with the head teacher or principal (where the role not carried out by the head teacher) to ensure there is always cover for this role and inform them of any issues. At all stages of the referral process, the DSP must keep the head teacher informed of ongoing investigations, ongoing child protection issues and the welfare of pupils who are subject to a child protection plan.

### **Record keeping**

2.34 It is the DSP's responsibility to keep detailed accurate secure written records of children where there are safeguarding concerns. These records are confidential and should be kept separately from pupil records. They should include a chronology of concerns, referrals, meetings, phone calls and emails. The school governing body is also responsible for keeping records of any disciplinary action taken against a member of staff. The DSP should maintain records for children who are the subject of a Child Protection Plan.

2.35 Where children leave the establishment, the DSP should ensure their child protection file is copied to the new establishment as soon as possible but transferred separately from main pupil file.

### **Raising awareness**

2.36 The DSP is responsible for ensuring that parents/carers see copies of the child protection policy which alerts them to the fact that referrals may be made and the role of the establishment in this to avoid conflict later. Many schools include information about this at induction meetings for new parents, in their prospectus and on their website.

2.37 It is good practice for the DSP to provide an annual briefing and regular updates at staff meetings on any new child protection issues, changes in local procedures and to ensure that all staff are kept up to date and regularly reminded of their responsibilities and school policies and procedures. Many schools find it helpful to discuss safeguarding regularly at staff meetings so that awareness remains high.

2.38 The DSP should liaise with the nominated governor for safeguarding so that the nominated governor can report to the governing body about safeguarding issues. Reports to the governing body should not be about specific child protection cases, but should review the safeguarding policies and procedures. It is good practice for the nominated governor and the DSP to present the report together.

### **Policy review**

2.39 The DSP should ensure the establishment's child protection policy is updated and reviewed annually and work with the governing body or proprietor regarding this.

2.40 As well as the school policy for child protection, there are other policies which have relevance to safeguarding and the DSP may be involved in monitoring the effectiveness of these other policies to ensure the school safeguards its pupils. Other relevant policies include:

- Attendance
- Anti-bullying
- E-safety
- Behaviour
- Intimate care
- Physical intervention
- Staff code of conduct
- Recruitment and selection
- Confidentiality

2.41 The NSPCC provides [resources and guidance](#) to support the DSP.

### **Child protection training/inter-agency training**

2.42 All staff who work with children need to have basic child protection training that equips them to recognise and respond to child welfare concerns. The depth and detail of training needed by different groups will vary according to the nature of their role and the extent of their involvement with children.

2.43 Teachers should receive training in child protection as part of the course of training leading to QTS, but this may need to be reinforced by further training, or refresher training, when they are first appointed. Other staff and governors should receive training when they are first appointed. All staff who do not have designated responsibility for child protection, including teachers, should undertake suitable refresher training at three yearly intervals thereafter to keep their knowledge and skills up to date.

2.44 Individual agencies are responsible for ensuring that their staff are competent and confident to carry out their responsibilities for safeguarding and promoting children's welfare. The Local Safeguarding Children Board will be able to provide advice on the minimum levels of training required by staff to ensure they are able to comply with locally agreed procedures.

2.45 Further information on Inter-Agency Training and Development is set out in Chapter 11 of [Safeguarding Children: Working Together Under the Children Act 2004](#).

2.46 The School Effectiveness Grant includes specific provision to enable all local authority and school staff to receive multi-agency training in child protection procedures to promote alertness to signs of abuse and neglect and knowledge of how to report concerns or suspicions, and liaison with the LSCB, within the context of school-based safeguarding measures. This provision includes initiatives that lead to the development of policies, procedures and effective systems that are designed to keep children and young people safe.



2.47 The purpose of multi-agency training is to help develop and foster the following in order to achieve better outcomes for children and young people:

- a shared understanding of the tasks, processes, principles, and roles and responsibilities outlined in national guidance and local arrangements for safeguarding children and promoting their welfare;
- more effective and integrated services at both the strategic and individual case level;
- improved communications between professionals including a common understanding of key terms, definitions, and thresholds for action;
- effective working relationships, including an ability to work in multi-disciplinary groups or teams; and
- sound decision making based on information sharing, thorough assessment, critical analysis, and professional judgement.

2.48 All staff, whether permanent or temporary, and volunteers who will work with children should, as part of their induction, be given a written statement about the school's policy and procedures, and the name and contact details of the designated child protection person when they start work in a new establishment.

2.49 When staff with a designated lead responsibility for child protection take up that role, they should receive training in interagency procedures that enables them to work in partnership with other agencies, and gives them the knowledge and skills needed to fulfil their responsibilities. They should also undertake refresher training to keep their knowledge and skills up to date.

2.50 Other staff should receive training when they are first appointed and undertake suitable refresher training to keep their knowledge and skills up to date.

2.51 The Welsh Government has introduced revised requirements for initial teacher training (ITT) courses which includes new provisions and updates certain existing requirements to take account of recent policy developments. The requirements specify that all providers must ensure that trainees are familiar with the most recent national guidance on child protection and safeguarding and promoting the welfare of children. All ITT courses must also include awareness of how abusers might operate following the findings of the Clywch report and published guidelines.

2.52 The Welsh Government will shortly issue an update to the [Becoming a Qualified Teacher: Handbook of Guidance](#). This includes coverage of this issue and provides information for ITT providers on the latest guidance on safeguarding children in education.

## **Supervision and support**

2.53 Working in the field of child protection entails making difficult and risky professional judgements. It is demanding work that can be distressing and stressful. All of those involved should have access to advice and support, from peers, managers, named and designated professionals, etc.

2.54 For many practitioners involved in day to day work with children and families, effective supervision is important to promoting good standards of practice and to supporting individual staff members. Supervision should help to ensure that practice is soundly based and consistent with LSCB and organisational procedures. It should ensure that practitioners fully understand their roles, responsibilities and the scope of their professional discretion and authority. It should also help identify the training and development needs of practitioners, so that each has the skills to provide an effective service.

2.55 Supervision should include scrutinising and evaluating the work carried out, assessing the strengths and weaknesses of the practitioner and providing coaching development and pastoral support. Supervisors should be available to practitioners as an important source of advice and expertise and may be required to endorse judgements at certain key points in child protection processes. Supervisors should also record key decisions within case records.

2.56 Effective arrangements for safeguarding and promoting the welfare of children should include having in place agreed systems, standards and protocols for sharing information about a child and their family within each organisation and between organisations. These local protocols should be in accordance with this guidance.

2.57 All those whose work brings them into contact with children should understand the purpose of sharing information in order to safeguard and promote children's welfare. They need to be confident about what they can and should do under the law, including how to obtain consent to share information, and when information may be shared even though consent has not been obtained or when to seek consent would place the child at risk of increased harm.

2.58 Research and experience have shown repeatedly that keeping children safe from harm requires professionals and others to share information: about a child's health and development and exposure to possible harm, about a parent who may need help to, or may not be able to, care for a child adequately and safely; and about those who may pose a risk of harm to a child. Often, it is only when information from a number of sources has been shared and is then put together and evaluated that it becomes clear that a child is at risk of or is suffering harm, or that someone may pose a risk of harm to children.

2.59 Those providing services to adults and children will be concerned about the need to balance their duties to protect children from harm and their general duty towards their patient or service user. Some professionals and

staff face the added dimension of being involved in caring for, or supporting, more than one family member, e.g. the abused child, siblings, an alleged abuser. Where there are concerns that a child is, or may be at risk of significant harm, however, the needs of that child must come first. In these circumstances, the overriding objective must be to safeguard and promote the child's welfare. In addition, there is a need for all organisations to hold information securely.

2.60 In order to safeguard and promote children's welfare, the LSCB should ensure that its partner agencies have in place arrangements under [section 28 of the Children Act 2004](#) whereby:

- all staff in contact with children understand what to do and the most effective ways of sharing information if they believe that a child and family may require additional services in order to achieve their optimal outcomes;
- all staff in contact with children understand what to do and when to share information if they believe that a child may be a child in need, including those children suffering or at risk of suffering harm;
- appropriate organisation-specific guidance is produced to complement guidance issued by the Welsh Government and such guidance and appropriate training is made available to existing and new staff as part of their induction;
- guidance and training specifically covers the sharing of information between professions, organisations and agencies, as well as within them and arrangements for training take into account the value of multi-agency training as well as single agency training; and
- managers in children's services are fully conversant with the legal framework and good practice guidance issued for practitioners working with children.

## **Particular responsibilities**

2.61 As well as the responsibilities of all schools and FE institutions set out above, this section outlines some of the specific issues and responsibilities particular to different types of education settings.

### **Governing bodies of maintained schools**

2.62 Governing bodies are accountable for ensuring that their establishment has effective policies and procedures in place to safeguard and promote the welfare of children in accordance with this guidance, and monitoring its compliance with them.

2.63 Whilst governing bodies have a role in exercising their disciplinary functions in respect of child protection allegations against a member of staff, they do not have an actual part in the consideration of individual cases carried out by the statutory authority at a strategy meeting. These cases are more

appropriately dealt with at the operational level by school staff as part of a multi-agency approach in line with local arrangements and [Safeguarding Children: Working Together Under the Children Act 2004](#).

2.64 Some governing bodies have found it helpful for an individual member of the governing body to be a 'link governor' to champion child protection issues within the school, liaise with the head teacher and the DSP, and provide information and reports to the governing body (along with the DSP) on issues which do not involve allegations against staff. It would also be appropriate for the governing body to identify the head teacher or chair of governors to fulfil this role. Governing bodies may wish to consider the opportunities to extend this role to include responsibilities for exercising governing body functions outlined as part of their section 175 responsibilities.

2.65 Whether the governing body acts collectively or an individual member takes the lead, in order for the governing body to have an effective policy in place and for the link governors to have confidence in their role, it is helpful if all members of governing bodies undertake relevant training about child protection to ensure they have the knowledge and information needed to perform their functions and understand their wider safeguarding responsibilities.

### **Independent schools**

2.66 The Welsh Ministers are the registrar of independent schools in Wales. Any establishment wishing to operate as an independent school must apply to the Welsh Ministers for registration in accordance with [section 160 of the Education Act 2002](#). It is an offence under section 159 for any person to conduct an independent school which is not registered.

2.67 The [Independent Schools Standards \(Wales\) Regulations 2003](#) set out the standards to which an independent school will be inspected under sections 160(4) and 163(2) of the Education Act 2002. [Standard 3](#) is specific to safeguarding and promoting the welfare, health and safety of children who are pupils at the school. These standards will be used to assess whether the school is complying with its legal obligation to safeguard and promote the welfare, health and safety of children who are pupils at the school. Where an application for registration is received the Welsh Ministers will notify Estyn who will carry out an inspection of the school and report to Welsh Ministers on the extent to which the Independent School Standards are met. The Welsh Ministers will take into account Estyn's report and any other evidence relating to the independent schools standards, determine whether standards are met and notify the proprietor of its determination.

2.68 Proprietors of independent schools have similar responsibilities to those of governing bodies of maintained schools but cannot rely on local authorities to provide advice, support, etc in the same way as they do for maintained schools. Authorities are free to provide those services to independent schools, and many do, charging appropriate fees for the work, but they have no obligation to do so. As with FE institutions, independent

schools that do not purchase services from a local authority can approach the LSCB for advice.

2.69 Social services departments and LSCBs offer the same level of support and advice to independent schools in matters of child protection as they do to maintained schools. It is particularly important that these channels of communication are maintained and developed so that children requiring support receive prompt attention and any allegations of abuse can be properly investigated. The proprietor should liaise with other agencies in the event that allegations are made involving the head teacher in cases where the proprietor is not the head teacher. Where the head teacher is also the proprietor, specific arrangements should be agreed with the LSCB.

2.70 Independent schools which provide medical and/or nursing care should ensure that their medical and nursing staff engage with and access appropriate advice and multi-agency training on child protection.

### **Independent schools offering boarding provision**

2.71 Proprietors of independent schools who provide accommodation for children will be aware that such establishments are required to register with both the Welsh Government and the Care and Social Services Inspectorate for Wales (CSSIW). Such independent schools are then subject to inspection by both Estyn and CSSIW. The Welsh Government has published guidance on the [National Minimum Standards \(NMS\) for Residential Special Schools](#) and the [National Minimum Standards for Mainstream Boarding Schools](#) to be met as part of independent schools' initial and continued registration.

2.72 The [Independent Schools Standards \(Wales\) Regulations 2003](#) set out standards which are intended to safeguard and promote the welfare of children for whom accommodation is provided by a boarding school. These standards are used to assess whether the school is complying with its legal obligation to safeguard and promote the welfare of the children for whom accommodation is provided. Standard 5 of the National Minimum Standards (NMS) for Residential Special Schools and Standard 3 of the National Minimum Standards for Mainstream Boarding Schools are specific to child protection and allegations of abuse and set out what must be in place for these standards to be met.

### **Further education institutions**

2.73 The statutory responsibilities for safeguarding and child protection only apply in relation to students who are under 18 years of age. As autonomous bodies FE institutions cannot rely automatically on local authorities to provide advice, support, access to training, policies and procedures, etc. Local authorities are free to provide those services to FE institutions, but have no obligation to do so. Services can be provided free of charge. Institutions that do not purchase services from a local authority can approach the LSCB for advice.

2.74 Where an institution provides education and/or training for pupils under 16 years of age who are on the roll of secondary schools, the designated person liaises with the schools concerned and ensures that appropriate arrangements are in place to safeguard the children; including matters such as registration of pupils and arrangements for attendance throughout the day.

### **Community-focused schools, pre- and post-school activities and out of hours learning**

2.75 The governing body of a school controls the use of the school premises both during and outside school hours, except where a trust deed allows a person other than the governing body to control the use of the premises, or a transfer of control agreement has been made. Governing bodies can enter into transfer of control agreements in order to share control of the school premises with another body, or transfer control to it. The other body, known as the “controlling body”, will control the occupation and use of the premises during the times specified in the agreement. Transferring control of the premises to local community groups, sports associations and service providers can enable school facilities to be used without needing ongoing management or administrative time from school staff.

2.76 Where the governing body provides services or activities directly under the supervision or management of school staff, the school’s arrangements for child protection will apply. Where services or activities are provided separately by another body, the governing body should confirm that the body concerned has appropriate policies and procedures in place in regard to safeguarding children and child protection and there are arrangements to liaise with the school on these matters where appropriate.

### **Everyone’s responsibilities**

2.77 If any person working in an education setting has knowledge, concerns or suspicions that a child is suffering, has suffered or is likely to be at risk of harm, it is *their* statutory duty and responsibility to ensure that the concerns are referred to social services or the police, who are the agencies together with the NSPCC with statutory powers to make enquiries, investigate suspected abuse and intervene when necessary.

2.78 It is the responsibility of individual employees and professionals to ensure that their child protection concerns are taken seriously and followed through. Each individual employee and professional is accountable for his or her own role in the child protection process, and if an individual employee or professional remains concerned about a child they should re-refer the child and/or bring the matter to the immediate attention of the social services senior manager with responsibility for child protection for the area. In their absence the social services team manager responsible for the child’s case must be notified. In all such situations, the individual employee or professionals own line manager and named professional for child protection should be informed.

2.79 A child, parent, caregiver, relative or member of the public who expresses concerns about a child's welfare to a professional and/ or agency employee must never be asked to make a self referral to social services or the police. The professional and/or agency employee must make the referral

2.80 Every person in contact with or working with children, young people and their families; or with adults who may pose a risk to children; or responsible for arranging services for children, should:

- Treat the child's welfare as paramount;
- Understand their role and responsibilities to safeguard and promote the welfare of children;
- Have access to and comply with [the All Wales Child Protection Procedures](#) which set out how to identify vulnerable children, keep them safe from abuse and neglect, and improve outcomes for them;
- Understand the principles and practice contained in [Safeguarding Children: Working Together Under the Children Act 2004](#);
- Be familiar with and follow their organisation's procedures and protocols for safeguarding and promoting the welfare of children and know who to contact in their organisation to express concerns about a child's welfare;
- Know when and how to refer any concerns about child abuse and neglect to social services or the police;
- Have received child protection training to a level commensurate with their role and responsibilities;
- Be aware of the impact and effects of abuse and neglect on children;
- Be alert to indicators of abuse and neglect, and aware of the risks which individual abusers, or potential abusers, may pose to children;
- Work co-operatively with the parents, unless this is inconsistent with the need to ensure the child's safety;
- Recognise when a parent or caregiver has compromised parenting capacity, that is, problems which may affect their capacity to provide effective and appropriate care, or which may mean they pose a risk of harm to a child;
- Share and help to analyse information so that an informed assessment can be made of the child's needs and circumstances;
- Contribute as necessary at all stages of the child protection process;
- Contribute to regularly reviewing the outcomes for the child against specific shared objectives; and
- Be committed to fully co-operating with all other agencies in the interests of safeguarding children.

2.81 If a child tells you that they or another young person is being abused, you should:

- Show the child that you have heard what they are saying, and that you take their allegations seriously;
- Encourage the child to talk, but do not prompt or ask leading questions;
- Not interrupt when the child is recalling significant events;
- Not make the child repeat their account;
- Explain what actions you must take, in a way that is appropriate to the

- age and understanding of the child;
- Not promise to keep what you have been told secret or confidential, as you have a responsibility to disclose information to those who need to know. Reporting concerns is not a betrayal of trust;
- Write down as soon as you can and no later than 24 hours what you have been told, using the exact words if possible;
- Report your concerns to your line manager or (if appropriate) the member of staff in your organisation with designated responsibility for child protection;
- Ensure that your concerns are immediately reported to the duty social worker at the local office. Do not delay;
- Not confront the alleged abuser;
- Not worry that you may be mistaken. You will always be taken seriously by social services. It is better to have discussed it with somebody with the experience and responsibility to make an assessment;
- Make a note of the date, time, place and people who were present at the discussion.

### **Seeking advice on concerns**

2.82 Suspicion about child abuse may take the form of ‘concerns’ rather than ‘known facts’. Child welfare concerns can arise in many different contexts, including when a child is already known to the social services.

2.83 Where a staff member has concerns, but wishes for further advice, this should be available from their own agency or from social services.

2.84 Concerns can and should be shared with social services through a referral. While concerns will not necessarily trigger an investigation, they help to build up a picture, along with concerns from other sources, which suggests that a child may be suffering harm.

### **Record keeping**

2.85 Any discussion about a child’s welfare should be recorded in writing, including a note of the date and time, and the people who took part in the discussion. At the end of a discussion, there should be clear and explicit agreement about what actions will be undertaken and by whom. If the decision is that no further action is to be taken, this should also be recorded in writing with the reasons for the decision.

2.86 Any member of staff with concerns about a child’s welfare should document their concerns, whether or not further action is taken. However, the need to seek advice should never delay any emergency action needed to protect a child.

2.87 Accurate, concise and clear record keeping in straightforward language is an essential part of an individual employee and professional’s accountability towards people using their services, and underpins good child protection



practice. All agencies involved in safeguarding and promoting the welfare of children must have policies, and procedures specifying arrangements for the retention, storage and destruction of electronic and paper case records. The policies should ensure that case records are stored safely and can be retrieved as required.

## **Investigations**

2.88 Schools must not undertake their own internal child protection enquiries, but refer their concerns. If the concern involves a member of staff, agencies must not make their own internal decisions about whether it is a disciplinary issue or a child protection matter,. Agencies should be mindful that the police have statutory powers and responsibility for determining whether a criminal investigation is to be undertaken.

## **Making referrals**

2.89 Referrals should be made to social services as soon as a problem, suspicion or concern about a child becomes apparent, and certainly within 24 hours. Outside office hours, referrals should be made to the social services emergency duty service or the police.

2.90 All telephone referrals or referrals made in person should be confirmed in writing within two working days, preferably using a local standard form where provided.

2.91 All individual employees and independent contractors should be aware that they cannot remain anonymous should they make a referral.

## **Engaging in the child protection process**

2.92 Any member of staff making a referral may be asked to do some or all of the following tasks, and should be prepared and willing to do them:

- Contribute to a strategy discussion or strategy meeting;
- Assist in the child protection section 47 enquiries;
- Attend the child protection conference;
- Provide a written report for the child protection conference;
- Contribute to the initial and core assessments.

2.93 Where a child of school age is the subject of an interagency child protection plan, the school should be involved in the preparation of the plan. The school's role and responsibilities in contributing to actions to safeguard the child, and promoting his or her welfare, should be clearly identified.

## **Listening to children**

2.94 Experience, and consultation with children, shows that they will talk about their concerns and problems to people they feel they can trust and they feel comfortable with. This will not necessarily be a teacher. It is therefore essential that all staff and volunteers in a school or establishment know how

to respond sensitively to a child's concerns, who to approach for advice about them, and the importance of not guaranteeing complete confidentiality.

2.95 Children want to know that they will be listened to and their concerns will be taken seriously, so all education establishments should seek to demonstrate to children that they provide them with a safe environment where it is okay to talk. Displays of helpful information about such things as national children's help lines ([Children's Commissioner](#), [Child Line](#), [Meic](#), [NSPCC](#)) and peer support schemes for children and young people in easily accessible places (e.g. on pupils' year planners) can encourage them to share concerns and help provide assurance about that. A draft model note for pupils is at Appendix 4.

2.96 Any member of staff or volunteer who is approached by a child wanting to talk should listen positively and reassure the child. They should record the discussion with the pupil as soon as possible and take action in accordance with the establishment's child protection procedures.

2.97 The available UK evidence on the extent of abuse among disabled children suggests that some may be especially vulnerable to abuse, for example those who have difficulty communicating. Learning support assistants working with children with special educational needs and disabilities provide close support to them and may encounter indications of possible abuse. Whilst extra care may be needed to ensure that signs of abuse and neglect are interpreted correctly, any suspicions should be reported in exactly the same manner as for other children.

2.98 The way in which a member of staff talks to a child who discloses abuse could have an effect on the evidence that is put forward if there are subsequent proceedings, and it is important that staff do not jump to conclusions, ask leading questions, or put words in a child's mouth. If a child makes a disclosure to a member of staff s/he should write a record of the conversation as soon as possible, distinguishing clearly between fact, observation, allegation and opinion, noting any action taken in cases of possible abuse and signing and dating the note.

### **The right to advocacy**

2.99 Article 12 of the [UN Convention on the Rights of the Child \(UNCRC\)](#) states that children have the right to say what they think should happen when adults are making decisions that affect them, and to have their opinions taken into account.

2.100 Advocacy is about empowering children and young people to make sure that their rights are respected and their views and wishes are heard at all times. When a child or young person articulates that a concern or problem is not being resolved and a complaint is likely to be made, local authorities should ensure that help and assistance is given if children or young people would like an advocate to speak for them. The local authority should provide

the child or young person with information about advocacy services.

2.101 It is important that children and young people have an advocate of their choice. This may include, for example, parents, other adult relatives, carers, social workers, teachers, friends or personal advisers. This is called informal advocacy. It may also include friends or relatives who are the same age. This is called peer advocacy. Such people should be able to look to advocacy services for advice and support in their role as advocates.

2.102 Children who are looked after and away from home and children with communication impairments can be especially vulnerable. The local authority must ensure that children are aware of the complaints procedures and their right to an advocate.

2.103 Under the [Advocacy Services and Representations Procedure \(Children\) \(Wales\) Regulations 2004](#), every local authority must provide an independent professional "voice", known as an advocate, for every looked after child and young person, care leaver and child in need. They should have access to an advocate when decisions are being made about them or if they want to make a complaint.

2.104 The Welsh Government has issued clear guidance for local authorities to ensure that children and young people are given help, including advocacy services, when making or intending to make a complaint: [Providing Effective Advocacy Services for Children and Young People Making a Representation or Complaint under the Children Act 1989](#).

2.105 The [National Standards for the Provision of Children's Advocacy Services](#) issued by the Welsh Government in 2003 provide a framework to plan, develop and review advocacy practice at all levels. The Standards set out the core principles that children and young people can expect from professionals providing advocacy services.

## **Confidentiality**

2.106 Many professionals are under a duty of confidentiality. This is important in maintaining confidence and participation in services and thereby helping to protect children's health and wellbeing. But, as relevant guidelines make clear, the duty of confidentiality is not absolute and may be breached where this is in the best interests of the child and in the wider public interest. If professionals judge that disclosure is necessary to protect the child or other children from a risk of serious harm, confidentiality may be breached

2.107 Where professionals judge that there is a need to share confidential information with children's social services or the police:

- they should attempt to support the child, where the child is the source of the information, to agree to a disclosure of information within a reasonable timescale;
- they may initially discuss the case anonymously with others, such as a colleague with suitable competence in child protection work or with

- children's social services;
- the child should be informed, unless to do so would seriously jeopardise their safety; and
- any decision to share information or not should be properly documented.

2.108 Decisions in this area may need to be made by or with the advice of, people with suitable competence in child protection work, such as named or designated professionals.

### **Parent or carer involvement**

2.109 All parents and carers need to understand that schools and FE institutions have a duty to safeguard and promote the welfare of children who are their pupils or students, that this responsibility necessitates a child protection policy and procedures, and that a school or institution may need to share information and work in partnership with other agencies when there are concerns about a child's welfare. It may be helpful to include a reference to this in the establishment's prospectus or other information provided to parents/carers and pupils/students. A model note for parents and carers is at Appendix 4 and a model note for pupils is at Appendix 5.

2.110 Professionals should seek to discuss any concerns about a child's welfare with the family and, where possible, seek their agreement to making referrals to social services. However, this should only be done where it will not place a child at increased risk of significant harm. The child's views should also be considered in deciding whether to inform the family in some circumstances, particularly where the child is sufficiently mature to make informed judgements about the issues.

2.111 Where there are any doubts or reservations about involving the child's family, the designated child protection person should clarify with the statutory agencies, whether, and if so when and by whom, the parents or carers should be told about the referral. That may also be important in cases where the police may need to conduct a criminal investigation. Where appropriate the designated child protection person, should help parents or carers understand that a referral is in the interests of the child and that the establishment will be involved in an enquiry under section 47 of the Children Act 1989 or a police investigation.

### **Information sharing**

2.112 Chapter 14 of [Safeguarding Children: Working Together Under the Children Act 2004](#) sets out guidance on information sharing in respect of children and young people.

#### **Key principles of information sharing**

2.113 The following key principles should be adhered to when considering sharing information about children and young people:

- The safety and welfare of a child or young person must be the first consideration when making decisions about sharing information about them;
- There must be a legal basis for sharing information and a legitimate purpose for doing so;
- When dealing with confidential information you will need to be satisfied that there is either:
  - a. a statutory obligation to disclose;
  - b. express or implied consent from the persons involved; or
  - c. an overriding public interest in disclosing information.
- You must consider the significance, or the potential significance, of the information you hold. The information you share should be relevant to the purpose for which you are sharing it and you should only share information with those practitioners or agencies that “need to know”;
- You should be open and honest with children, young people and their families about the reasons why information needs to be shared and why particular actions need to be taken, unless to do so would adversely affect the purpose for which the information is to be shared;
- You should gain consent to share information unless it is not safe or possible to do so, or if it would undermine the prevention or detection of a crime;
- Information should be accurate, held securely and kept for no longer than necessary.
- Whenever information is shared, with or without consent, the information shared, when, with whom and for what purpose, should be recorded. Similarly, if a decision is taken not to share information, this should also be recorded; and
- The best way of ensuring that information sharing is properly handled is to work within carefully worked out information sharing protocols between the agencies and professionals involved, and taking legal advice in individual cases where necessary.

### **The Wales Accord on the Sharing of Personal Information (WASPI)**

2.114 [The Wales Accord on the Sharing of Personal Information](#) (WASPI) provides a framework for the exchange of personal information between different partner organisations in Wales. The [WASPI framework](#) is recognised as one of the key elements of the Welsh Government's [Sharing Personal Information programme](#) and in 2010 received endorsement by the Welsh Government as the ‘single’ information sharing framework for Wales. The framework is made up of two parts:

- **The Accord:** a common set of corporate principles and standards under which partner organisations will share information. Signing up to the Accord records the commitment of each partner organisation, to meet agreed standards for the sharing of personal identifiable information, and to use the framework; and
- **Information Sharing Protocols (ISPs):** the “who, why, where, when, what and how” questions of sharing personal information for specific and lawful purposes. ISPs detail the:
  - specific purpose(s) for information sharing;
  - group(s) of service users it impacts upon;
  - relevant legislative powers and the consent processes involved;
  - data which is to be shared;
  - required operational procedures and the process for review;
  - means of communicating to practitioners the specific operational requirements.

## Chapter 3: Safeguarding responsibilities in specific circumstances

### Introduction

3.1 Education staff have a crucial role to play in helping identify welfare concerns and indicators of possible abuse or neglect at an early stage, referring those concerns to the appropriate agency (normally the social services department), and contributing to the assessment of a child's needs. They will also be well placed to give a view on the impact of an intervention on the child's welfare or behaviour.

3.2 Chapter 2 sets out the duties of education services in all circumstances when any member of staff has concerns about the welfare of a child. This chapter deals with additional considerations in relation to specific safeguarding issues. One or more sections might apply to an individual child's circumstances.

3.3 A wealth of information and guidance exists, much of it statutory, which schools and education providers must follow in order to meet their safeguarding duties and responsibilities. This chapter provides links to statutory and other guidance on specific safeguarding issues, but rather than simply signposting readers to other documents, it also summarises the key issues about which education professionals must all be aware. This includes definitions of key terms, risk indicators, how to respond if you have concerns, and proactive approaches to be taken by schools to put in place measure to prevent children from risks of harm.

### Safeguarding responsibilities in specific circumstances

#### Asylum-seeking and refugee children

##### Definitions

3.4 **A refugee** is defined by the [United Nations Convention Relating to the Status of Refugees 1951](#) as:

“a person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

3.5 In the UK, a person is officially a refugee when they have their claim for asylum accepted by the Home Office. A person given refugee status is normally granted leave to remain in the UK for 5 years. At the end of that period they can apply for Indefinite Leave to Remain. R is a form of

immigration status given by the Home Office. Indefinite leave to remain (ILR) is also called 'permanent residence' or 'settled status' as it gives permission to stay in the UK on a permanent basis.

3.6 **An asylum seeker** is person who has left their country of origin and formally applied for protection in another country on the basis of the [United Nations Convention Relating to the Status of Refugees 1951](#) or Article 3 of the [European Convention on Human Rights](#) but whose application has not yet been concluded.

3.7 **Dependent children of asylum seekers:** Children of people applying for asylum will normally be considered as their 'dependants.' A dependent child who reaches the age of 18 prior to the decision on the principal applicant's application must continue to be treated as a dependant for the purposes of the application. At this point they can also make an application for asylum in their own right if they wish to do so.

3.8 **An accompanied asylum seeking child (AASC)** is a child who:

- is applying for asylum in their own right; and
- forms part of a family group; or
- is separated from both parents and is being cared for by an adult who by law has responsibility to do so or is in a private fostering arrangement.

3.9 The accompanying adult will be asked to provide evidence of the above relationship, for example, a genuine birth certificate or guardianship papers. A private fostering arrangement is defined when an adult (aside from the child's parent) is looking after a child for duration of more than 28 days. A referral to the Local Authority must be carried out to assess the appropriateness of the placement.

3.10 **An unaccompanied asylum seeking child (UASC)** is a child who is:

- applying for asylum in their own right; and
- is separated from both parents and is not being cared for by an adult who in law or by custom has responsibility to do so.

3.11 A child may move between the unaccompanied and accompanied categories whilst their applications are under consideration, for example, where a child arrives alone but is later united with other family members in the UK, or a child arrives with their parents or close relatives but is later abandoned, or a trafficked child, or one brought in on false papers with an adult claiming to be a relative.

3.12 Unaccompanied asylum seeking/ refugee children and young people are not only outside their country of origin but are also without the care and protection of their parents or legal guardian. Unaccompanied children and young people are more likely than not to be "children in need" within the meaning of [Section 17\(1\) of the Children Act 1989](#) in view of their being alone in the UK with no family to support them.



## Key issues

3.13 All asylum seeking/ refugee children and young people should be regarded as children first and migrants second. Therefore, as with any other child in the UK, asylum-seeking/ refugee children and young people are entitled to social services assessment, support and protection for the period of their childhood and their transition into adulthood or until they leave the United Kingdom, or until their needs are otherwise met. The local authority in which a child's needs are identified is responsible for meeting them. However, all agencies are responsible for safeguarding, and the welfare of the child or young person is paramount.

3.14 Asylum seeking/ refugee children and young people aged 5–16 have the same entitlement to full-time education as other children in the UK. Education is very important to asylum seeking/ refugee children and young people and has been numerously cited by unaccompanied children and young people as being a very important aspect of their lives and a contributing factor to their general feeling of well-being. Every child/ young person has a right to an education and those working with asylum seeking/ refugee children should ensure that they are able to access education.

## Statutory duties and guidance

3.15 The Welsh Refugee Council, Displaced People in Action and Children in Wales have jointly developed a [Teachers Resource Pack for Working with Asylum Seeker and Refugee Children](#).

3.16 Chapter 4.10 of the [All Wales Child Protection Procedures](#) covers Unaccompanied Asylum Seeking Children.

3.17 In addition, the All Wales Child Protection Procedures Review Group published [All Wales Practice Guidance on Safeguarding and Promoting the Welfare of Unaccompanied Asylum Seeking Children and Young People](#) in 2011. The Practice Guidance provides guidance and support for multi-agency professionals, including particular action to take to safeguard and promote the well-being of unaccompanied children and young people, and an overview of the relevant complex policy and practice which can make unaccompanied children and young people from abroad particularly vulnerable, including those who may need protection.

3.18 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) requires that local authorities should carry out a comprehensive assessment of needs for every unaccompanied asylum seeking child referred to them. In the majority of cases this assessment will lead to them being accommodated. Once an unaccompanied asylum seeking child has become accommodated, under [section 20 of the Children Act 1989](#) they would all be required to be the subject of a care plan (pathway plan at 16+) which must be based on this comprehensive assessment of their needs. This must take account of the following dimensions:

- Health (including mental health such as whether post traumatic support

- and counselling is needed);
- Education;
- Emotional and Behavioural Development;
- Identity;
- Family and social relationships;
- Social Presentation; and
- Self care skills including the child's understanding of the implications of their immigration status and the skills required to manage transitions.

3.19 Unaccompanied asylum seeking children may require Looked After Children Plans and Pathway Plans, coordinated by children's services, which should realistically consider the possibility of all outcomes and ensure that they are discussed openly and sensitively with the child/young person. Plans should consider what skills, education and training would be most useful, not only if the unaccompanied asylum seeking child remains in the UK, but also if they have to return to their country of origin. Professionals should consider how best to protect children and young people when all their appeals are exhausted, giving the broadest interpretation to the type of support they can be given to avoid a breach of their rights.

### **Risk indicators**

3.20 The status, age and circumstances of asylum seeking/ refugee children and young people may well be uncertain. Sometimes they may have witnessed or experienced traumatic events and they may be suffering the most extreme forms of loss. There are many reasons why children and young people may leave their home country (whether unaccompanied or with their parents). Some of the reasons include:

- fear of persecution, due to their religion, nationality, ethnicity, political opinion or social group;
- parents having been killed, imprisoned or disappeared;
- in danger of being forced to fight or become a child soldier;
- war, conflict;
- poverty, deprivation;
- sent abroad by parents/family.

3.21 Asylum seeking/ refugee children and young people can often find expressing their opinions, experiences and emotions difficult, particularly when they are involved with complex processes in an adult dominated environment, for a number of reasons including:

- fear of an unknown country and culture;
- little or no other support networks in the UK (family or friends);
- negative experiences with government officials/professionals in their home country;
- barriers of language and social context.

3.22 The vulnerability of children and young people subject to immigration control is an additional vulnerability. Research into the emotional well-being

and mental health of children /young people has shown that uncertainty concerning their immigration status causes extreme anxiety and distress to them, particularly those who are in their late teens and nearing the end of their Discretionary Leave in the UK. It is important that professionals are mindful and take account of these issues, and that appropriate planning is considered throughout the whole care process.

### Responding to concerns

3.23 Professionals who come into contact with unaccompanied individuals who claim to be under 18 must make an immediate referral to Social Services for further age assessment, support and safeguarding due to potential vulnerabilities.

3.24 In doubtful or borderline cases as to a child or young person's age, the child or young person should be given the benefit of the doubt, and a referral must still be made to Children's Services.

3.25 Education professionals should also make a notification to the Education Welfare Service within the first 24 hours.

3.26 Professionals should be mindful that whilst some asylum seeking/ refugee children and young people may appear to understand and speak English when talking about everyday things, they may not be able to accurately articulate their life experiences or fully express their feelings if they are not given the opportunity to speak in their first language or the correct dialect.

3.27 Arrangements must be made for an interpreter to be available when communicating with children/young people for the purpose of safeguarding and promoting their welfare if their first language is not English. If a decision is made that an interpreter is not required the reasons for this should be clearly recorded on the child/ young person's case notes/case file<sup>1</sup>. Children's Social Services should always work under these arrangements based on the findings of the [Victoria Climbié Inquiry](#); this is good practice guidance for all agencies.

3.28 Asylum seeking/ refugee children and young people are entitled to request a same gender interpreter or for their interpreter to be changed. Children/young people should have an interpreter who they trust and fully understand. It is important that this is discussed with them at an early stage, along with the role of the interpreter.

3.29 Many agencies will have their own local arrangements in place to access interpreters and translators and professionals should follow these. Given the nature of the work involved it is important that these arrangements include agreements with interpreters around ethical issues, including independence and confidentiality. It is for these reasons that individuals that know the child/young person personally i.e. family members, friends or

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<sup>1</sup> Recommendation 18, para 6.251, Laming (2003)

community members should not be used as interpreters. Interpreters should be DBS checked.

3.30 If an agency does not have arrangements in place to provide interpreters or translated information or existing arrangements are not suitable i.e. no interpreters are available who speak the child/young person's first language, alternative arrangements should be made. In Wales, interpretation and translation services include [the Wales Interpretation and Translation Services \(WITS\)](#) and [Barnardo's Interpreter Service](#).

3.31 The role of an advocate for unaccompanied children and young people is extremely useful in enabling them to convey their wishes and feelings. It can give them a voice in decision making and can help to resolve some of their issues at an early stage. For example Advocacy Services could help unaccompanied children/young people challenge age assessments, access appropriate housing, assist with accessing legal advice or representation on particular matters. For more information, see section on Advocacy in Chapter 2 .

3.32 Asylum seeking/ refugee children and young people who are in receipt of services should also, where appropriate, be provided with age appropriate written information about services and other relevant documents e.g. leaflet about how to make a complaint about service providers. Some agencies may already have certain information published in a range of languages which will be appropriate. However arrangements may need to be made for information to be translated. Some children may require information orally and efforts need to be made to ensure that the child/ young person understands the information that they are provided with whether in writing or orally.

### **Proactive approaches**

3.33 Alongside generic pupil support services including pastoral support staff, education welfare staff, school nurses, and school based counselling services, there are additional support mechanisms in place for refugee/ asylum seeking children and young people. Professionals working with refugee/ asylum seeking children are encouraged to make links with such support services for advice and assistance, for example, Minority Ethnic Achievement Service teams in local authorities (see section below.)

## **Black and Minority Ethnic (BME) Children**

### **Key issues**

3.34 Research shows that black children and those of mixed heritage are more likely to be subject to child protection plans and/ or end up in the care system than white children. The reasons behind this are still unclear, but we do know there are certain issues that impact on the safeguarding and wellbeing of children from Black and Minority Ethnic (BME) backgrounds.

3.35 As well as families from BME backgrounds facing similar pressures of

family life as other families, it is more likely that some BME families could face extra stress due to poverty, poor housing, unemployment and low income, immigration issues, language difficulty, mental health issues or discrimination. They may also lack awareness of or access to, appropriate services which could help them.

3.36 There are cultural differences in raising children - what might seem acceptable in one family or community may be deemed inappropriate in another. Some parents, particularly those who are new to the UK, may be confused about what is acceptable practices in the UK context and this may lead to questioning by various agencies about their parenting style and in more serious cases, investigation by children's services or the police. Some cultural practices are against the law in the UK, such as female genital mutilation (see section on FGM).

3.37 'Culture' is no excuse for harming a child. All children have a right to be protected from harm and we need to be clear about the difference between culturally specific practice that is not harmful, and incidents of abuse that may be linked to cultural or religious beliefs.

3.38 Children from minority ethnic backgrounds may suffer other types of abuse such as racial harassment, racial discrimination, institutional racism, Islamophobia and bullying which can harm them physically and emotionally.

3.39 Although racism causes significant harm it is not, in itself, a category of abuse. The experience of racism is likely to affect the responses of the child and family to assessment and enquiry processes.

3.40 Failure to consider the effects of racism will undermine efforts to protect children from other forms of significant harm. The effects of racism differ for different communities and individuals, and should not be assumed to be uniform.

### **Statutory duties and guidance**

3.41 In 2011 the Welsh Government published specific guidance on [bullying around race, religion and culture](#).

3.42 In 2012, BAWSO<sup>2</sup> published [Protecting Black and Minority Ethnic Children: An Investigation of Child Protection Interventions](#). This research study looked at the number of children BAWSO has worked with who have been on the Child Protection Register between 2006 – 2011, to explore the issue of safeguarding children from Black and Ethnic Minority (BME) backgrounds. Its findings included:

- The need to recognise and understand the complexities inherent in the relationships between nuclear and extended BME families and between

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<sup>2</sup> BAWSO is an all Wales, Welsh Government Accredited Support Provider, delivering specialist services to people from Black and Ethnic Minority backgrounds who are affected by domestic abuse and other forms of abuse

BME families and communities. For many women, relations between their nuclear and extended families embody a complex mix of support and surveillance and that, across BME cultures, a strong emphasis is placed upon the expectations of the extended family. A further source of intra familial tension that was referred to by women respondents related to the economic hardship at times experienced by themselves and their children as a result of their husbands channelling family funds to support their own wider relations and also to the stress that this sense of responsibility could cause for husbands and the way in which this stress could be presented as a causal factor in male abusive behaviour;

- BME communities too were seen by women respondents as simultaneous sources of support and oppression wherein some groups and individual friends within their ethnic and/or faith community were resources for support and advice but could also represent a form of monitoring of women's behaviour, of sanctioning and even endorsing male abuse and, at the very least, of disapproval through which a woman might become yet more isolated from those around her;
- A significant lack of knowledge and understanding of the role of Social Services in particular for women born outside the UK. Those respondents not brought up within the UK (five out of eight) had no prior knowledge of social services. This means not only that information-giving is important but also that there is a significant opportunity to convey positive images of social services to people who have not been exposed to the myths/ stereotypes arising from negative media coverage;
- The need for information to be clearly imparted and explained and for women to be enabled in developing their understanding of 'outside' (the family/community) agencies and processes. Some women talked about being left out of the discussion and decisions affecting them. For instance women cited examples of how they were just expected to turn up for conferences without prior information of the purpose, and/or expectation.

3.43 The Equality Act 2010 consolidates existing law into a single legal framework and while many of the concepts of discrimination remain the same as in previous equality legislation there are some areas that were not previously covered. There are various types of discrimination that apply to the [schools provisions in the Act](#):

- **Direct discrimination:** Direct discrimination occurs when you treat a pupil less favourably than you treat (or would treat) another pupil because of a protected characteristic. So a very basic example would be refusing to admit a child to a school as a pupil because of their race, for example because they are Roma. It is not possible to justify direct discrimination, so it will always be unlawful.
- **Discrimination based on association:** Direct discrimination also occurs when you treat a pupil less favourably because of their association with another person who has a protected characteristic. This might occur when

you treat a pupil less favourably because their sibling, parent, carer or friend has a protected characteristic.

- **Discrimination based on perception:** Direct discrimination also occurs when you treat a pupil less favourably because you mistakenly think that they have a protected characteristic.
- **Indirect discrimination:** Indirect discrimination occurs when you apply a provision, criterion or practice in the same way for all pupils or a particular pupil group, but this has the effect of putting pupils sharing a protected characteristic within the general student group at a particular disadvantage. It doesn't matter that you did not intend to disadvantage the pupils with a particular protected characteristic in this way. What does matter is whether your action does or would disadvantage such pupils compared with pupils who do not share that characteristic. For example, a school which requires male pupils to wear a cap as part of the school uniform, although applied equally to all pupils, has the effect of excluding Sikh boys whose religion requires them to wear a turban. This would be indirect discrimination based on religion and belief as it is unlikely that the school would be able to justify this action.

3.44 [Section 149 of the Equality Act 2010](#) creates a **Public Sector Equality Duty**, a unique piece of equality legislation which gives public bodies, including schools and further education institutions, legal responsibilities to:

- take steps not just to eliminate unlawful discrimination and harassment, but also to actively promote equality;
- eliminate racial discrimination, promote equality of opportunity and to promote good relations between persons of different racial groups. Institutions must produce a race equality policy which is a written statement of their policy for promoting race equality;
- assess and monitor the impact of policies on students and staff of different racial groups, in particular the admission and progress of students and the recruitment and career progress of staff. Such steps as are reasonably practicable should be taken to publish annually the results of monitoring.

3.45 The Equality Act 2010 also makes provision for Welsh Ministers to be able to make regulations that impose **Specific Public Sector Equality Duties** on relevant Welsh devolved public authorities (as defined in specified in [Part 2 of Schedule 19 to the Act](#)). The Specific Duties enable public bodies in Wales, including schools and FE institutions, to achieve better performance of the general Public Sector Equality Duty. Complying with the specific duties is not therefore simply about administrative processes and procedures – it is about generating positive equality outcomes.

3.46 The Specific Duties in Wales are set out in the [Equality Act 2010 \(Statutory Duties\) \(Wales\) Regulations 2011](#) and came into force on 6 April 2011. The Specific Duties in Wales cover:

- Objectives
- Strategic Equality Plans
- Engagement
- Assessing impact
- Equality information
- Employment information
- Pay differences
- Staff training
- Procurement
- Annual reporting
- Publishing
- Welsh Ministers' reporting
- Review
- Accessibility

3.47 The Equality and Human Rights Commission has produced [essential guides](#) for public sector bodies on the specific equality duties in Wales, as well as guidance for schools, [What equality law means for you as an education provider in Wales](#).

### Responding to concerns

3.48 Education staff need to be aware of any situations where children engage in racist bullying towards others, be clear with them that this is not acceptable and can deal appropriately with the situation.

3.49 The need for neutral, high quality, gender-appropriate translation or interpretation services should be taken into account when working with children and families whose language of normal use is not English. However, children should never be used as interpreters.

3.50 All organisations working with children, including those operating in areas where black and minority ethnic communities are numerically small, should address institutional racism, defined in the [MacPherson Inquiry Report on Stephen Lawrence](#) as "the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin".

### Proactive approaches

3.51 Minority Ethnic Achievement Service teams in local authorities work to support minority ethnic children/young people in schools to support their educational achievement and these teams receive additional funding from the Welsh Government via the Minority Ethnic Achievement Grant (MEAG). The objective of MEAG is to improve educational opportunity for all minority ethnic learners, particularly those for whom English is an additional language; to offer asylum seeker pupils the special support they need and, broadly, to improve minority ethnic pupils' standards of achievement across the board.



## Bullying

### Definition and key issues

3.52 There are many definitions of bullying, but most consider it to be:

- deliberately hurtful (including aggression);
- repeated often over a period of time, while recognising that even a one-off incident can leave a learner traumatised and nervous of future recurrence;
- difficult for victims to defend themselves against.

3.53 Individual learners' perspectives on what constitutes bullying is also a key element to take into account.

3.54 Bullying can take many forms, but the three main types are:

- physical – hitting, kicking, taking belongings, sexual harassment or aggression
- verbal – name-calling, insulting, making offensive remarks
- indirect – spreading nasty stories about someone, exclusion from social groups, being made the subject of malicious rumours, sending malicious e-mails or text messages on mobile phones.

3.55 The damage inflicted by bullying can frequently be underestimated. It can cause considerable distress to children, to the extent that it affects their health and development or, at the extreme, causes them significant harm (including self-harm). All settings in which children are provided with services should have in place rigorously enforced anti-bullying strategies.

3.56 Every learner in every school has the right to learn, free from the fear of bullying, whatever form that bullying may take. Everyone involved in a learner's education needs to work together to ensure that this is the case. Schools need to take an active approach to tackle all forms of bullying, and should be taking action to prevent bullying behaviour as well as responding to incidents when they occur.

3.57 A distinction needs to be drawn between behaviour best dealt with by anti-bullying policies and more complex behaviour which can be particularly sexually harmful and where both the perpetrator and the victim may need specialist help. (For more information, see section on sexually harmful behaviour and abuse by children and young people later in Chapter 3.)

### Statutory duties and guidance

3.58 Welsh Government Circular 23/2003, [Respecting Others: Anti-Bullying Guidance](#) provides school governors, headteachers, teachers and other staff with information on tackling bullying in schools and the steps that schools should take to support learners who report bullying outside of school. It offers direct practical solutions to both prevention and dealing with incidents of bullying, and gives the legal background and an explanation of the roles of all involved in preventing and dealing with bullying.

3.59 In 2011, the Welsh Government produced a set of type-specific anti-

bullying guidance to support schools when devising preventative and responsive measures to different types of identity-based bullying. The set includes:

- bullying around race, religion and culture
- bullying involving learners with special educational needs and disabilities
- homophobic bullying
- sexist, sexual and transphobic bullying.
- cyberbullying - advances in communication technologies, and access to them by children and young people, has required schools to be vigilant and innovative in finding solutions to their misuse.

3.60 These guidance materials can be accessed on the Welsh Government's website at [www.wales.gov.uk/respectingothers](http://www.wales.gov.uk/respectingothers)

### **Responding to concerns and proactive approaches**

3.61 Prevention and response go hand in hand. In effective schools these approaches are, in fact, interdependent. This is a particularly important dynamic when considering bullying that is prejudice-related. Where bullying behaviours may be predicated on values or beliefs that require challenge, it is critical that the school takes action to deal with both the behaviour and the underlying attitudes that drive it.

3.62 It is essential to develop a strong inclusive ethos where bullying and prejudice is not tolerated. The challenge for all schools is, first and foremost, in creating a safe learning environment which actively protects learners from harm and prevents bullying behaviour from taking place. Responding promptly and effectively to incidents if they do arise gives confidence and assurance to all members of the school community.

3.63 Anti-bullying policies should be developed as part of the school's wider behaviour policy and should include specific references to all forms of bullying, including the 'protected characteristics' as highlighted in the Equality Act 2010.

## **Child abuse images and the internet**

### **Definition and key issues**

3.64 Accessing abusive images of children is not a victimless action. Those who access inappropriate images of children are contributing to and encouraging continuing abuse of those children. Those children are victims of serious abuse and the abusers, whether the perpetrators of the initial abuse or those who access the images, should be subject to appropriate and proportionate criminal action.

3.65 Abusers are also using the Internet to try to establish contact with children with a view to 'grooming' them for inappropriate or abusive relationships, which may include requests to make and transmit pornographic images of themselves or to perform sexual acts live in front of a web cam.

Contacts made initially in a chat room are likely to be carried on via email, instant messaging services, mobile phone or text messaging.

3.66 There is also growing cause for concern about the exposure of children to inappropriate material via interactive communication technology, e.g. adult pornography, and/or extreme forms of obscene material. Allowing or encouraging a child to view such material over an appreciable amount of time may warrant further enquiry. Children themselves can engage in text bullying and use mobile camera phones to capture violent assaults of other children for circulation.

### **Statutory duties and guidance**

3.67 Chapter 5.5 of the [All Wales Child Protection Procedures](#) covers indecent images of children and the internet.

3.68 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes a section on child abuse images, the internet and information technology.

3.69 Further guidance, training and support is available from the [Child Exploitation and Online Protection Centre](#) (CEOP), a partnership between Government, law enforcement, NGOs (including children's charities) and industry, with the common aim of protecting children. It works to protect children, families and society from paedophiles and sex offenders, in particular, those who seek to exploit children sexually online.

3.70 In 2006, the then Education Minister wrote to all local authorities asking them to ensure that access to social networking web sites was blocked in schools. This request reflected very real concerns about the ability of children and young people to protect themselves online, especially when using social networking websites which were, at that time, quite new.

3.71 In the years since then, the use of digital technology has become even more embedded in our daily lives, and social networking tools have become largely integral to day to day use of the Internet. This is especially true for children and young people and it is essential, therefore, that we engage with them through their education on how to stay safe online and on the importance of respecting others. The practice of blocking access to social networking sites in schools does not help to achieve this aim, although such restrictions were founded in understandable concerns about online predators and bullying.

3.72 In March 2013, the Minister for Education and Skills published a [written statement on the safe and responsible use of social networking sites in education](#) and wrote to all local authorities to ask them to work with the Welsh Government on a new and more positive approach. This recognises that for children to develop the skills and knowledge they need to become confident digital citizens, they need to understand how to use the Internet safely under supervision and independently. Where social networking sites are blocked in

schools, this increases the risk that children are most likely to be using these sites outside the school, at home, or on mobile devices, in environments where they may be unsupervised and where they have less access to informed guidance and support on how to stay safe online.

3.73 In 2008, Wales was the first country in the UK to introduce the teaching of safe and responsible use of the Internet into both the primary and secondary school curriculum. The principle was that we first teach children to use the Internet safely under supervision, and then help them to develop the skills and understanding they need to manage their own risk as they use the Internet independently. Enabling access to social networking sites in schools is consistent with this approach, providing pupils with the opportunity to learn safe, responsible and considerate online behaviours in the context of supported educational activities. It will also help schools to include parents in these activities.

3.74 Through the all Wales learning platform, Hwb and Hwb+, the Welsh Government encourages schools to make full use of social technologies in order to engage learners and improve learning outcomes, while championing a culture of safe and responsible digital citizenship in Wales. Hwb hosts e-safety resources centrally for all schools and help teachers to raise awareness of e-safety issues with parents and pupils. The Welsh Government is working closely with the National Digital Learning Council and UK Safer Internet Centre to ensure that learners in Wales have the best possible advice on e-safety.

### **Responding to concerns**

3.75 There is some evidence that persons found in possession of indecent photographs of children are likely to be involved in hands on child abuse. Thus, when somebody is discovered to have placed or accessed such material on the internet, the police should normally consider the potential risk that the individual is involved in the active abuse of children. In particular, the individual's access to children should be established, within the family, employment contexts, and in other settings (e.g. work with children as a volunteer or in other positions of trust).

3.76 If there are particular concerns about one or more specific children, a referral should be made to social services in line with Child Protection Procedures.

### **Proactive approaches**

3.77 As part of their role in preventing abuse and neglect, education providers should consider activities to raise awareness about the safe use of the Internet by children both in school and at home. This should include appropriate training for school staff and guidance on the safe use of the Internet for both children and parents. LSCBs will be a key partner in the development and delivery of training and education programmes.

## **Child abuse linked to belief in ‘witchcraft’ or other spiritual belief**

### **Definition and key issues**

3.78 The belief in ‘possession’ and ‘witchcraft’ is widespread. It is not confined to particular countries, cultures or religions, nor is it confined to new immigrant communities in this country.

3.79 The number of known cases of child abuse linked to accusations of “possession” or “witchcraft” are small, but children involved can suffer damage to their physical and mental health, capacity to learn, ability to form relationships and self-esteem.

3.80 The attempt to “exorcise” may involve severe beating, burning, starvation, cutting or stabbing, and/or isolation, and usually occurs in the household where the child lives

### **Statutory duties and guidance**

3.81 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) contains guidance on child abuse linked to belief in “possession” or “witchcraft”, or in other ways related to spiritual or religious belief.

3.82 More detailed supplementary good practice guidance Safeguarding Children from Abuse Linked to a Belief in Spirit Possession was published by the Welsh Government in 2008. It gives practitioners a clear understanding of their duties and offers advice as to what to do if they suspect that a child is being abused or neglected because of a belief in spirit possession.

### **Risk indicators**

3.83 Such abuse generally occurs when a carer views a child as being “different”, attributes this difference to the child being “possessed” or involved in “witchcraft”, and attempts to exorcise him or her. A child could be viewed as “different” for a variety of reasons such as:

- disobedience
- independence
- bedwetting
- nightmares
- illness
- disability

### **Responding to concerns**

3.84 Agencies should look for these indicators, be able to identify children at risk of this type of abuse and intervene to prevent it. They should apply basic safeguarding children principles including sharing information across agencies, being child-focused at all times; and keeping an open mind when

talking to parents and carers. They should ensure they liaise closely with colleagues and make connections with key people in the community, especially when working with new immigrant communities, so that they can ascertain the different dimensions of a family's cultural beliefs.

## **Children living away from home/in temporary accommodation**

### **Definition and key issues**

3.85 Children are deemed to be living away from home in the following circumstances:

- Foster care, provided by the local authority or by an independent agency;
- Private fostering;
- Residential care, provided by the local authority or by a voluntary or independent agency;
- Secure units,
- Residential schools, both provided by the local authority and voluntary/independent schools;
- Health establishments such as hospitals;
- Independent accommodation used by care leavers and other young people under 18 years;
- Prisons, secure training centres and young offender institutions.

3.86 Children living away from home must be afforded the same level of protection as children living with their family.

3.87 Revelations of the widespread abuse and neglect of children living away from home have done much to raise awareness of the particular vulnerability of children in a residential setting. Many of these have focused on sexual abuse, but physical and emotional abuse and neglect - including peer abuse, bullying and substance misuse - are equally a threat in institutional settings. There should never be complacency that these are problems of the past - there is a need for continuing vigilance.

3.88 Placement in temporary accommodation, often at a distance from previous support networks or involving frequent moves, can lead to individuals and families falling through the net and becoming disengaged from health, education, social care and welfare support systems. Some families who have experienced homelessness and are placed in temporary accommodation by local authorities under the main homeless duty can have very transient lifestyles.

3.89 It is important that effective systems are in place to ensure that the children from homeless families receive services from health and education as well as any other specific types of services because these families move regularly and may be at risk of becoming disengaged from services.

3.90 Where there are concerns about a child or children, the [All Wales Child Protection Procedures](#) should be followed.

## Statutory duties and guidance

3.91 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes guidance on children living away from home and children of families living in temporary accommodation.

3.92 Chapter 4.2 of the [All Wales Child Protection Procedures](#) covers children living away from home.

## Child sexual exploitation (CSE)

3.93 Staff in schools, further education institutions and other education establishments are uniquely placed to recognise and refer children who are abused through child sexual exploitation (CSE). They are also in a position to support children to reduce vulnerability to and risk of sexual exploitation and to support abused children to recover. This section outlines key information about CSE and the statutory duties and requirements of schools and education staff in relation to this particularly hidden form of abuse.

## Definition and key issues

3.94 CSE as defined within the statutory guidance [Safeguarding Children and Young People from Sexual Exploitation](#) is the coercion or manipulation of children and young people into taking part in sexual activities. It is a form of sexual abuse involving an exchange of some form of payment which can include money, mobile phones and other items, drugs, alcohol, a place to stay, 'protection' or affection. Children do not volunteer to be sexually exploited and they cannot consent to their own abuse; they are forced and/or coerced. The vulnerability of the young person and grooming process employed by perpetrators renders them powerless to recognise the exploitative nature of relationships and unable to give informed consent. This applies equally to young people under the age of 18 as defined in the Children Act 1989 and 2004.

3.95 CSE includes:

- abuse through exchange of sexual activity for some form of payment
- abuse through the production of indecent images and/or any other indecent material involving children whether photographs, films or other technologies
- abuse through grooming whether via direct contact or the use of technologies such as mobile phones and the internet
- abuse through trafficking for sexual purposes

3.96 CSE involves varying degrees of coercion, intimidation or enticement, including unwanted pressure from their peers to have sex, sexual bullying (including cyber bullying), and grooming for sexual activity. Technology can also play a part in sexual abuse, for example, through its use to record abuse and share it with other like-minded individuals or as a medium to access children and young people in order to groom them. CSE can take many forms

from the seemingly 'consensual' relationship where sex is exchanged for attention, affection, accommodation or gifts, to serious organised crime and child trafficking. What marks out exploitation is an imbalance of power within the relationship. The perpetrator always holds some kind of power over the victim, increasing the dependence of the victim as the exploitative relationship develops.

3.97 Research provides indications of the nature and prevalence of CSE in Wales. A scoping study carried out in 2005<sup>3</sup> found 184 separate cases of children or young people across Wales were identified as having been sexually exploited. A pilot study carried out in Newport in 2006<sup>4</sup> identified 67 children and young people at significant risk of sexual exploitation. The data from the pilot study when considered with data gathered from two other Welsh local authorities provided a sample of 1487 cases held by social services including youth offending services<sup>5</sup>. Of these cases, risk assessments indicated that 9% (129) of children and young people were at significant risk of sexual exploitation.

3.98 The evidence gathered on child sexual exploitation in Wales suggests that the majority of exploitation takes place 'off street', in private accommodation, hotels, or sauna/massage establishments. The hidden nature of this form of abuse has a significant impact on the visibility of the problem. Disclosure of sexual abuse and violence is always difficult for children and young people. The sophisticated grooming and priming processes executed by abusing adults and the exchange element of the abuse, act as additional barriers, which increase denial and make disclosure especially difficult.

3.99 Therefore, the ability to recognise 'at risk' children and young people is key to safeguarding vulnerable children. Evidence from research in relation to the vulnerabilities and risk indicators associated with sexual exploitation is now well established. Level of risk can be identified by considering the number and range of risk indicators present in a child's life.

### **Statutory duties and guidance**

3.100 The Welsh Government has issued statutory supplementary guidance on [Safeguarding Children and Young People from Sexual Exploitation](#). This is designed to assist teachers, health professionals, social workers, the police and other key practitioners in preventing child sexual exploitation (CSE) to:

- develop local prevention strategies
- identify those at risk of being sexually exploited
- take action to safeguard and promote the welfare of particular children and young people who are being, or may be, sexually exploited and

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<sup>3</sup> Coles, J (2005) [Out of sight, out of mind: Child sexual exploitation](#), Cardiff: Barnardo's Cymru

<sup>4</sup> Clutton, S. and Coles, J. (2007) [Sexual Exploitation Risk Assessment Framework: A pilot study](#), Cardiff: Barnardo's Cymru

<sup>5</sup> Clutton, S. and Coles, J. (2009) [Child Sexual Exploitation in Wales: 3 years on](#), Cardiff: Barnardo's



take action against those intent on abusing and exploiting children and young people in this way.

3.101 The statutory guidance requires that staff working across agencies need to be familiar with the contents of the [All Wales Protocol on Safeguarding and Promoting the Welfare of Children who are at Risk of Abuse through Sexual Exploitation](#). This sets out the formal Child Protection Procedure to be used where there are concerns that a child is at risk of, or abused through, sexual exploitation. It applies to male and female children up to the age of 18 years irrespective of whether they are living independently, at home, with carers, or in a residential setting.

3.102 The All Wales Protocol states that education services should identify a designated lead officer for CSE; this is often, but not always the lead Child Protection/Safeguarding Officer. In addition a designated teacher for CSE should be identified in each school (the designated teacher for child protection). These lead individuals should have, or develop, a level of expertise in relation to CSE. They should be able to advise within their school or service on identifying and referring a child at risk and how their agency can contribute to risk reduction work and a safeguarding plan. They should also be expected to attend multi-agency meetings held under the All Wales Protocol.

3.103 All schools and educational facilities should ensure that staff receive appropriate training to ensure they are competent to identify a child who may be vulnerable or at risk of CSE and act accordingly upon concerns. All schools and educational facilities should ensure that their child protection procedures include reference to the responsibilities outlined in this guidance.

3.104 The NSPCC has issued a briefing on [the role of schools, colleges and academies in protecting children from sexual exploitation](#). It provides some practical considerations for schools to protect pupils who are vulnerable to child sexual exploitation and make all pupils aware of the risk. Further information about child sexual exploitation is available on the [NSPCC website](#).

### **Risk indicators**

3.105 The statutory guidance on [Safeguarding Children and Young People from Sexual Exploitation](#) and [All Wales Protocol](#) also require that all staff in all agencies (including schools, education other than in school and FE institutions) should be familiar with the vulnerability and risk indicators below.

3.106 Vulnerabilities include:

- abuse or neglect by parent/carer/family member
- history of local authority care
- family history of domestic abuse
- family history of substance misuse
- family history of mental health difficulties
- breakdown of family relationships
- low self-esteem

3.107 Risk indicators include:

- staying out late
- multiple callers (unknown adults/older young people)
- use of a mobile phone that causes concern
- expressions of despair (self-harm, overdose, eating disorder, challenging behaviour, aggression)
- disclosure of sexual/physical assault followed by withdrawal of allegation
- sexually transmitted infections
- peers involved in clipping (receiving payment in exchange for agreement to perform sexual acts but not performing the sexual act)/ sexual exploitation
- drug/ alcohol misuse
- use of the internet that causes concern
- unsuitable/inappropriate accommodation (including street homelessness)
- isolated from peers/social networks
- lack of positive relationship with a protective/nurturing adult
- exclusion from school or unexplained absences from or not engaged in school/college/training
- living independently and failing to respond to attempts to keep in touch

3.108 Significant risk indicators include:

- periods of going missing overnight or longer
- older 'boyfriend'/ relationship with controlling adult
- physical/emotional abuse by that 'boyfriend'/controlling adult
- entering/leaving vehicles driven by unknown adults
- unexplained amounts of money, expensive clothing or other items
- frequenting areas known for sex work
- physical injury without plausible explanation

3.109 The [All Wales Protocol](#) includes a Sexual Exploitation Risk Assessment Framework (SERAF) which enables safeguarding actions to be linked to evidence of risk, thereby facilitating both preventive action and appropriate interventions and is intended to inform appropriate responses in relation to children and young people's safeguarding needs. School staff should be alert and competent to identify and act upon concerns that a child is vulnerable to, at risk of, or experiencing abuse through CSE. They should be familiar with SERAF and appropriate associated actions in relation to each level of risk.

### **Responding to concerns**

3.110 As with all child protection concerns, staff should be aware of the importance of reporting any concerns that a child is at risk of any form of sexual exploitation. Any concerns that a child is at risk of sexual exploitation should be raised with the designated teacher for CSE, who should make a referral to Social Services in line with the school's child protection policy. It is essential that all information from a range of sources (including from other young people) is pulled together; any information may help to build up a full picture that the child may be suffering harm.

3.111 A SERAF should be completed by Social Services within seven working days of the referral, to establish if a child is in need and requires protection. The risk assessment will consider all the vulnerabilities and risks and place the child in one of four categories of risk: not at risk, mild risk, moderate risk or significant risk.

### **Proactive approaches**

3.112 Disclosure of this form of abuse is exceptionally rare. Children at risk of sexual exploitation will often be in high risk situations and isolated from protective, nurturing adults. Children may be under very strong pressure, intimidated, afraid and/or dependent on the exploiter/s because of substance misuse. Children may therefore reject offers of help and support; interventions need to be designed to address this. It is important that staff maintain contact and are available to children and young people until they reach a point where they are ready to think about their situations and accept support.

3.113 Evidence shows that a relationship with a protective, nurturing adult who over time challenges the perceptions of the young person can lead to an increase in the awareness of the child in relation to risks and experiences. Establishing a positive trusting relationship with such vulnerable children and young people takes time. A relationship needs to be developed which offers something tangible to the child or young person. At the same time it is important to acknowledge that workers are not providing a friendship and that there are inescapable power differentials. Change needs to happen at a pace that is set by the young person and which provides real choices and promotes a sense of positive control for the young person. Working with children and young people who are exposed to risk situations and experiences of sexual exploitation requires an approach that is non-judgmental and where staff are 'unshockable'. There is a need to be consistently honest and to listen to and respect the views of children and young people.

3.114 By the point in a child or young person's life where they are significantly at risk of or are already abused through sexual exploitation, they are subject to a complex pattern of life experiences which impact negatively on each dimension of their life. Because of this they can present to agencies such as the Police as 'streetwise' or as 'problematic' rather than in need of support. Information, training, tools for risk identification, protocols and procedures and tools for assessment lead to a plan of intervention. Intervention, support and action should be based upon the child or young person's needs and be delivered by a trusted worker in conjunction with a protective network of appropriate agencies.

3.115 The school Personal Health and Social Education (PHSE) curriculum provides a sound platform through which to deliver basic safeguarding information, to explore ideas around 'healthy' sexual relationships and to provide children and young people with a sense of agency and control about their bodies and selves. This also needs to include opportunities for children and young people to understand the very real risks involved in staying out late and going missing from school, home or care.

3.116 Education welfare officers and other pastoral staff, in their assessment and ongoing work with young people and their families and liaison with school staff, can identify children who are being, or are at risk of being, abused through sexual exploitation. Where the young person is already known to an Education Welfare Officer they would also be expected to attend the multi-agency strategy meetings, which must take place within 8 days of a practitioner having concerns about a child or young person being the victim of CSE, and contribute to the child in need or child protection plan.

## **Children who go missing from education**

### **Definition and key issues**

3.117 If a child or young person is receiving an education, not only do they have the opportunity to fulfil their potential, they are also in an environment which enables local agencies to safeguard and promote their welfare. If a child goes missing from education they could be at risk of significant harm.

3.118 Schools are in a position to identify problems and issues quickly, the potential for future problems and intervene effectively, working with other services where necessary. Due to the daily contact that they have with children and young people, they are well placed to notice when a child or young person has gone missing.

3.119 Research has shown that those children and young people who are not receiving an education are more likely to engage in criminal and anti-social behaviour, be at risk of harm from sexual exploitation and victimisation, abuse drugs and alcohol and be illegally employed. They are also more likely to fail to make a positive transition at 16 and be at greater risk of being NEET (not engaging in education, employment or training).

3.120 It is therefore imperative that all professionals who have contact with children and young people work together to identify those missing from education and ensure they can swiftly return to a suitable form of provision with appropriate support. There is clear consensus that as most young people do not arrive at extreme need overnight; early identification and preventative work can reduce vulnerability and the necessity for future support.

3.121 There is a wide variety of reasons why children and young people fail to engage in or go missing from education; each presenting various degrees of risk; which could include those, who:

- simply move and their families do not tell either the new or old authorities;
- move into a local authority area and do not register with a local school. Depending on their circumstances some parents may not see re-enrolment at school as a matter of urgency even if previously their children had been good attendees at school. Indeed if their children are nearing school leaving age the family may not see the relevance of returning them to education;
- are unable to attend their preferred school as no places are available and

- do not take up the offer of an alternative place;
- never enter the education system because they fail to start appropriate provision at the start of compulsory school age (there is no requirement for parents to inform local authorities of the fact that they intend to educate at home if the child has never attended school);
- are withdrawn by their parents who elect to educate at home and both parents and the school fail to notify the local authority;
- cease to attend school due to disputes, parental dissatisfaction, unofficial exclusion or removal from the school roll;
- fail to complete a transition between providers, for example, from primary to secondary school or from a school to alternative provision;
- who enter the country and do not register with a school;
- move into or out of the Looked After Children system or the secure estate without prior notice or planning;
- are excluded from or withdrawn from independent schools;
- do not wish to be found; families may change their names and move quickly from place to place within the UK; or
- have been removed from, or prevented from, attending education as a result of forced marriage (see section on Forced Marriage and Honour Based Violence later in Chapter 3).

### Statutory duties and guidance

3.122 The Welsh Government has published [Statutory guidance to help prevent children and young people from missing education](#). It provides a practical toolkit to help identify children and young people missing education. This section provides a summary of key issues and statutory responsibilities about which education professionals should be aware.

3.123 Parents have a duty to ensure that their children receive an efficient full-time education suitable to their child either by regular attendance at school or otherwise (under section 7 of the Education Act 1996) and they may choose to arrange this education themselves outside the state or independent school system. There is however, currently no legal requirement on parents to tell a local authority that their child is receiving education at home. It is therefore difficult for LAs to fulfil their duty under section 436A of the Education Act 1996. Additional information on elective home education can be found in the Welsh Government's [Inclusion and Pupil Support Guidance](#).

3.124 Section 436A of the Education Act 1996 (inserted by section 4 of the [Education and Inspections Act 2006](#)) requires all local authorities to make arrangements to enable them to establish (so far as it is possible to do so) the 'identities of children in their area who are not registered at school and are not receiving a suitable education'. The purpose of the duty is to make sure that children and young people who are not registered pupils are identified and that effective monitoring systems are put in place to ensure that those children or young people are provided with 'suitable education'<sup>6</sup>, which may also

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<sup>6</sup> 'Suitable education', is defined as meaning efficient fulltime education suitable to their age, ability and aptitude and to any special educational needs they may have.

involve support arrangements.

3.125 The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision) and who have been out of any educational provision for a substantial period of time, usually agreed as four weeks or more.

3.126 The duty does not apply in relation to children and young people who are registered at a school who are not attending regularly. In such cases a child or young person should be subject to intervention through existing attendance strategies and education welfare procedures and is outside the remit of this guidance. Further information on support for attendance can be found in section 3 of the Welsh Government's [Inclusion and Pupil Support Guidance](#) (circular 47/2006), and the [All Wales Attendance Framework and Behaving and Attending: Action Plan Responding to the National Behaviour and Attendance Review](#).

3.127 Each local authority and school has a responsibility to attempt to trace all children and young people who cease to attend education. This is vital as there is always a possibility that the child or young person may be missing because they are at risk of significant harm. If there are concerns about the whereabouts of any child or young person, locally agreed child protection procedures and guidelines about what action to take should be followed.

3.128 **Local authorities** should ensure that all schools are made fully aware of both their responsibilities in relation to children and young people missing education and that local procedures are being consistently applied by schools to re-establish contact and gather information regarding the learner moving or transferring schools. They should work with schools to develop and implement models of good practice and ensure that schools are properly supported to meet these responsibilities.

3.129 **Schools** should put in place effective systems for monitoring children and young people missing from education. This includes appointing a designated Child Protection Co-ordinator who is made aware of any 'children missing' (and in any case when absence is erratic as this may indicate risk or concerns). They should be responsible for ensuring that the procedures for making the authority aware of the problem have been followed. There must be clear responsibilities for this role or for those to whom the duties are delegated. We would urge strongly that these individuals are provided with sufficient management support to discharge the role. There must also be regular monitoring of the processes and numbers by local authority Senior Management, Elected Members and Children and Young People's Partnerships or LSCBs.

3.130 Schools should have clear child protection guidelines about the action to take should they become concerned about the whereabouts of any child or young person.

3.131 **Governing bodies** are accountable for ensuring that their school has effective policies and procedures in place to safeguard and promote the welfare and well-being of children and young people, and for monitoring compliance. All schools should ensure that the governing body (or proprietor in the case of independent schools) designates a governor to take responsibility for child protection matters.

### **Risk indicators**

3.132 Local and national experience has identified a number of risk factors that may make certain groups of vulnerable children more at risk of going missing from education and who face tougher obstacles to re-engage. This list is not exhaustive, but could include children and young people, who:

- are within the youth justice system;
- live in women's refuges;
- are from homeless families perhaps living in temporary accommodation or a bed and breakfast;
- are from families fleeing domestic violence;
- have long term medical or emotional problems;
- are young carers;
- have parents with mental health problems;
- have parents with learning difficulties;
- are affected by substance misuse;
- were previously educated within the Independent sector and have been excluded or withdrawn;
- have been withdrawn by their parents for elective home education but are not receiving a suitable education;
- are Looked After by the local authority; are privately fostered; or who go missing from care;
- are unaccompanied asylum seekers;
- are on the child protection register;
- have been bullied;
- are from asylum seeking or refugee families;
- are from Gypsy, Traveller or Roma background;
- are from families who may be highly mobile for e.g. have parents in the armed forces;
- are taken on extended holidays or heritage visits by their families; or
- are young parents and pregnant young women.

3.133 Learners are less likely to go missing from education if vulnerable groups and individuals who are recognised as being at greater risk are identified early, appropriate support given and their progress monitored.

3.134 There will be certain instances where the local authority or school may be unaware of children and young people with more complex issues, but they may come to the attention of other agencies such as health services, the police or community organisations. These children and young people can only be identified via other agency involvement and this requires strong partnership working and clear referral mechanisms.

3.135 These groups could include those who:

- are at risk of forced marriage and honour-based violence;
- are at risk of sexual exploitation, including children and young people who have been trafficked to or within the UK;
- with their families are involved in the witness protection programme who may be required to relocate without explanation or trace;
- are from families who are involved in fraud, social difficulties, crime and anti-social behaviour;
- are young runaways;
- are from migrant worker families who may not be familiar with the education system;
- are newly arrived immigrant families; or
- are from families who disappear without trace when asylum has not been granted or if accommodation has not been allocated in their preferred location.

3.136 It is recognised that the factors listed above make children and young people 'vulnerable' in every sense and it is therefore particularly important they are not allowed to go missing from education. Both schools and local authorities need to pay particular attention to children and young people in these groups, particularly when they leave or arrive in their area. They may have needs that go beyond the reach of universal services and local authorities should seek advice from the relevant specialist teams and partner agencies.

3.137 In some instances the whereabouts of children and young people will be known to the authority but they are not yet in provision. It is imperative that children and young people in these groups are tracked and monitored to ensure that suitable provision is made for them. This group includes, for example, those:

- for whom a school place has been offered and refused, and an appeals process is taking place;
- who have been permanently excluded and are awaiting placement;
- who are newly arrived in the county or country; are seeking school places and they are known to admissions; or
- where the local authority has significant grounds for believing that satisfactory home education is not being provided by parents.

3.138 There will be those who have attended schools and who have left to an unknown destination, with no forwarding address and who have failed to be located after 'reasonable enquiry' and whose whereabouts remain unknown. Although the statutory duty is for local authorities to identify children and young people missing education residing in their area, it is recommended that those who have disappeared without a known destination should remain on missing lists of the departing authority. These lists should be routinely monitored as they may re-appear in the county or elsewhere in the country.



## Responding to concerns

3.139 Every practitioner working with a child has a responsibility to inform the local authority if they know or suspect that a child is not receiving education. Head teachers and education welfare officers must make every effort to trace the child or young person. Consideration should be given to:

- the length of non-attendance;
- the level of concern;
- the perceived risks to the child or young person who is absent.

3.140 School actions and speed of response will depend on the level of perceived vulnerability of the child or young person. Assessing vulnerability requires a combination of professional knowledge and experience of child welfare issues and knowledge of local circumstances. When in doubt, schools must consult with the member of staff designated to take lead responsibility for dealing with Child Protection issues.

3.141 When a child or sibling group appear to have gone missing or are withdrawn from a maintained school in Wales without the parent/carer giving notice or without the school being advised of a new school, the school should try to make contact with the parents/carers. If these efforts fail, the school should notify the Education Welfare Service promptly who will then work with the school and make every effort to try and identify the child or young person's current whereabouts/destination as soon as it is suspected that the period of absence is unusual in any way.

3.142 In cases of serial truancy schools should already be working with their Education Welfare Officer in trying to re-engage the pupil back into the school system. Also a school will know the individual pupil involved and if the behaviour is normal for them. Schools should already have systems in place for contacting parents or carers on the first day of a pupil's absence from school. If a child does not arrive at school when expected, the school should already be considering what information they know about the young person and their family history. If there are any concerns for the child's safety these concerns should immediately be referred to the statutory authorities for consideration.

3.143 In cases where there are specific concerns about a child or young person, a more pro-active and rigorous approach must be undertaken. This will include vulnerable children and young people:

- who have a record of poor school attendance; or
- where there is evidence of poor or inappropriate parenting.

3.144 In cases where there are no specific concerns, an agreed plan of action for the school Education Welfare Officer and other agencies that may have contact with the child or young person can be formulated. This will include carrying out a local search within a required time frame, with appropriate follow up actions if a child is not found within the authority area.

3.145 These could include investigations with:

- social services;
- neighbourhood and housing;
- education welfare services in neighbouring local authorities.

3.146 The unexplained, continuous absence of any child or young person whose name is on the Child Protection Register or where there are particular child protection concerns must be treated as the highest priority and schools should immediately notify their local authority social services.

3.147 When following up missing children and young people where it is known that there may be issues around domestic abuse; the EWS should not make contact with other family members as this could inadvertently compromise the safety of the child or young person. Enquiries must proceed with extreme sensitivity and this in itself can lead to a delay in tracing them. In such cases it may not be considered appropriate to pass on details of a child or young person's history to a new school in case it leads the abuser to the new contact address. Local authorities should look to develop links with organisations and refuges that work in the area of domestic violence to explore the establishment of effective communication channels and referral routes and ensure that procedures are in place to safely transfer records where possible, contact previous local authorities to inform that the child is safe and well, and explore with them if there are other concerns, e.g. child protection.

3.148 For most families, moves and changes of school are planned events and information could be gathered regarding the proposed move or school transfer. It may be helpful in tracking children and young people and save time later, if the parent can be asked to complete a form to provide this information. Schools may find it helpful to include this form in their attendance policy and their admission pack for parents, and refer to it in the home-school agreement as well as reminding parents in school newsletters.

### **Proactive approaches**

3.149 There is a range of proactive approaches that local authorities and their partner agencies can take to reduce the risk of children and young people not receiving a suitable education. Existing good practice falls broadly into the following categories where the local authority introduces measures to:

- provide named points of contact to receive notification of children and young people from other agencies;
- identify vulnerable groups and individuals who are recognised as being at greater risk; ensuring that they receive appropriate support and tailored provision;
- reduce the likelihood that children and young people fall out of the education system through transition tracking and audits of the rolls and registers of schools;
- ensure full usage of and training related to s2s and the lost pupil database;
- follow-up cases where children and young people are known not to be receiving a suitable education at home and use existing section 437

powers of the Education Act 1996 to issue a school attendance order if needed;

- ensure ongoing monitoring and tracking of vulnerable groups including those who have been excluded from school; Looked After Children and those registered as receiving education otherwise than at school;
- identify and locate children and young people who are not receiving a suitable education, via truancy sweeps;
- follow-up admission applications that do not result in a school place and unsuccessful admission appeals; and
- re-engage children and young people with appropriate educational provision, for example via multi-agency panels to broker admissions.
- In order to prevent children and young people from going missing from education, or to find and re-engage them if they have gone missing, it is essential that a wide variety of agencies acknowledge a safeguarding responsibility in this area. Finding missing children and young people is much more effective when agencies work together. This may involve information sharing, an operational involvement or providing support for other agencies. Local organisations will need to work together to agree on and implement a local information sharing strategy with data sharing agreements with key agencies.

### Heritage visits

3.150 For children being taken on heritage visits or extended holidays, it is important to recognise the positive outcomes in terms of maintenance of language, culture and faith that could result from such a visit. A sensible balance must be struck between the legitimate needs of families to maintain links with their extended families and countries of origin on the one hand and the need to limit the time spent away from school, both in terms of duration and frequency. Schools have discretion to allow up to 10 days absence during term time in a school year if they believe that the circumstances warrant it (regulation 7 of the [Education \(Pupil Registration\) Regulations 2010](#)). However, this is entirely at the discretion of the head teacher.

3.151 Parents should always be asked and expected to inform the school in advance of any proposed extended holidays and heritage visits including an anticipated return date. Where possible, schools should seek to obtain contact details for the visit as well as contact details of a relative or friend who could be contacted for information in the UK if this was required. Appendix 6 of the Welsh Government [Statutory guidance to help prevent children and young people from missing education](#) contains an example of a home school contract between school and parents for an extended holiday.

3.152 Failure to return on the agreed date should prompt welfare concerns and enquiries should begin at this point. A child or young person who goes missing from education may be considered to be at risk of significant harm. The school should follow the normal procedures for investigating pupil absence (i.e. telephone calls, letters, invitations to meetings at the school etc). If no satisfactory explanation has been received the matter should be referred to the EWS to locate the young person and if there are any additional

concerns, particularly if a school has any reason to be concerned that an older pupil is being taken out of the country against their will, and forced marriage may be a risk, or that there may be another child protection issue associated with extended leave, these concerns should immediately be referred to the statutory authorities for consideration.

## **Children who may have been trafficked**

### **Definition and key issues**

3.153 Child trafficking is child abuse. [The Palermo Protocol to Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children](#) (ratified by the UK on 6 February 2006) defines trafficking as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

3.154 The Palermo Protocol establishes children as a special case: any child transported for exploitative reasons is considered to be a trafficking victim, whether or not they have been deceived. This is partly because it is considered not possible for children to give informed consent. Even when a child understands what has happened, they may still appear to submit willingly to what they believe to be the will of their parents or accompanying adults. It is important that these children are still protected.

3.155 [The Sexual Offences Act 2003](#) introduced new wide-ranging offences covering trafficking into, out of or within the UK for any form of sexual offence, which carries a 14 year maximum penalty.

3.156 The [Asylum and Immigration \(Treatment of Claimants, etc\) Act 2004](#) introduced a new offence of 'trafficking for exploitation,' which covers trafficking for forced labour and the removal of organs.

3.157 The UK is a destination country for trafficked children and young people from every part of the world. Such children enter the UK through various means. Some enter as unaccompanied asylum seekers, or students or as visitors. Children are also brought in by adults who state that they are their dependents, or are met at the airport by an adult who claims to be a relative. It has been suggested that children have been brought in via internet transactions, foster arrangements and contracts as domestic staff. In some cases girls aged 16 or 17 will have been tricked into a bogus marriage for the purpose of forcing them into prostitution.

3.158 Most children are trafficked for financial gain. This can take the form of payment from or to the child's parents and, in most cases, the trafficker also receives payment from those wanting to exploit the child once in the UK. Some trafficking is by organised gangs, in other cases individual adults or agents traffic children to the UK for their own personal gain. Children may be used for:

- sexual exploitation
- domestic servitude
- exploitative labour (e.g. sweat shops, nail bars, restaurants, agricultural work)
- criminal activity (e.g. credit card fraud, begging, pick pocketing, cannabis cultivation, moving drugs, drug dealing or decoys for adult drug traffickers)
- benefit fraud, sometimes under the guise of unregulated private fostering arrangements
- forced marriage.

3.159 In some instances children may be trafficked for the purposes of adoption outside their country of origin. Those involved in facilitating these arrangements may deceive the authorities responsible for the adoption process, and often benefit from significant financial gain through payments by prospective adopters who may be unaware of the true circumstances of a child's availability for adoption. This can include payment, coercion or the deception of birth parents into relinquishing a child as well as abducting children.

### **Statutory duties and guidance**

3.160 The Children Act 1989 and 2004 applies to all children in the UK who need protection, including children trafficked to the UK. Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes a section on Child Victims of Trafficking.

3.161 The UK also has international obligations in relation to trafficking under the UN Palermo Protocol, the [EU Framework Decision on Trafficking for the Purposes of Sexual and Labour Exploitation](#), and the Council of Europe [Convention on Action against Trafficking in Human Beings](#).

3.162 In 2008, the Welsh Government published guidance on [Safeguarding Children who may have been Trafficked](#). This provides good practice guidance to professionals and volunteers from all agencies to help them effectively safeguard children who are abused and neglected by adults who traffic them into and within the UK in order to exploit them.

3.163 In March 2009, the Children's Commissioner for Wales commissioned [ECPAT UK](#) (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) to undertake research into the scale of child trafficking in Wales. The findings of the study were published in the report [Bordering on Concern: Child Trafficking in Wales](#).

3.164 In 2011 the Home Office published its [Strategy on Human Trafficking](#). This places emphasis on raising awareness of child trafficking and ensuring child victims are safeguarded and protected from re-trafficking.

3.165 The [Trafficking Toolkit](#) developed by the London Safeguarding Children Board provides helpful guidance on dealing with trafficking.

3.166 The [All Wales Practice Guidance for Safeguarding Children Who May Have Been Trafficked](#) provides practical guidance to professionals and volunteers from all agencies to help them effectively safeguard children who are abused and neglected by adults who traffic them into and within the UK for purposes of exploitation.

3.167 The Welsh Government has commissioned ECPAT UK to develop a child trafficking on-line training resource *In Your Hands* to help raise awareness of child trafficking and to assist practitioners in the identification and safeguarding of children who might have been trafficked. The training resource can be accessed on the ECPAT UK website at: [www.ecpat.org.uk](http://www.ecpat.org.uk).

### **Risk indicators**

3.168 Children trafficked into the country may be registered at a school for a term or longer, before being moved to another part of the UK or abroad. This pattern of registration and de-registration may be an indicator that a child has been trafficked. It has been identified as a particular concern in schools which are situated near ports of entry, but professionals should be alert to this possibility in all schools. However, professionals should always bear in mind that not all children who go missing from education have been victims of trafficking. For example, there may be instances of children from communities that move around – Gypsy, Roma, traveller or migrant families – who collectively go missing from school.

3.169 Children who have experienced certain life events are more at risk of going missing from education. Trafficked children are particularly vulnerable. Schools need therefore to be alert to the possibility that a child who goes missing from school, may be, or has been, a trafficked child who is living with or is running away from an exploitative situation.

3.170 All children who have been trafficked and exploited are likely to suffer some form of physical or mental harm, including:

- not receiving routine and emergency medical attention
- sexually transmitted infections, including HIV/AIDS; early pregnancy and possible damage to their reproductive health;
- physical beatings and rape;
- physical deprivations, sensory deprivations and food deprivation;
- being subdued with drugs/ alcohol, which they may then become dependent on
- disorientation after leaving their family environment, compounded for some children by having to assume a new identity or having no identity at all

- isolation from the local community in the UK by being kept away from school and because they cannot speak English
- living in fear both of the adults who have physical control of them and of the threat that they will be reported to the authorities as immigration criminals
- loss of their trust in all adults
- post traumatic stress disorder
- flashbacks, nightmares, anxiety attacks, irritability and other symptoms of stress, such as, nervous breakdowns
- loss of ability to concentrate
- anti-social, aggressive and angry, and/or fearful and nervous
- low self-esteem, depression, suicidal.

3.171 There are a number of risk factors which could indicate that a child may have been trafficked to the UK, and may still be controlled by the traffickers or receiving adults. These include situations in which the child:

- Has no passport or other means of identification
- Has false documentation
- Does not appear to have money but does have a mobile phone
- Receives unexplained/unidentified phone calls
- Is driven around by an older male or 'boyfriend'
- Is withdrawn and refuses to talk
- Shows signs of sexual behaviour or language
- Shows signs of physical or sexual abuse, and/or has contracted a sexually transmitted disease
- Has a history with missing links and unexplained moves
- Has gone missing from local authority care
- Is required to earn a minimum amount of money every day
- Has limited freedom of movement
- Appears to be missing for periods
- Is known to beg for money
- Is being cared for by adult/s who are not their parents.

### Responding to concerns

3.172 If a member of staff suspects that a child may have been trafficked they should act immediately (within 24 hours) to inform the senior member of staff with designated responsibility for child protection and ensure that police or local authority children's social care are contacted immediately. If it is thought that a child is in immediate danger, a call should be made to the emergency services on 999 or the NSPCC on 0808 800 5000. The Welsh Government guidance [Safeguarding Children who may have been Trafficked](#) advises that a verbal referral with a written record should be made within 48 hours of contact.

3.173 The NSPCC National [Child Trafficking Advice Centre](#) (CTAC) is a free specialist service providing direct assistance to professionals in statutory and non statutory services responsible for children who show signs of having been trafficked and offers advice on how their immediate needs can be addressed.

It supports referrals to other agencies and offers advice on best safeguarding practice.

3.174 CTAC works in partnership with the [Child Exploitation Online Protection Centre](#) (CEOP), the UK Human Trafficking Centre (UKHTC) and the Home Office to offer an appropriate response to children who have been victims of human trafficking.

3.175 The [UK Human Trafficking Centre](#) is a multi-agency organisation led by the [National Crime Agency](#). Its role is to provide a central point of expertise and coordination in relation to the UK's response to the trafficking of human beings. In 2009 it introduced the [National Referral Mechanism](#) (NRM), to meet the UK's obligations under the Council of European Convention on Action against Trafficking in Human Beings. The NRM is a framework for identifying victims of human trafficking and ensuring they receive the appropriate protection and support. The NRM also provides a valuable and useful tool for agencies to gather and share information on potential victims to ensure the needs of child victims are appropriately assessed and met.

3.176 Staff who find themselves with grounds for concern that a person may be a victim of human trafficking may make a referral to the NRM. The initial referral will generally be handled by an authorised agency known as the 'first responder'. First responder agencies include Local Authorities, the [NSPCC](#) (CTAC), [National Crime Agency](#), police forces, the [Home Office](#), [BAWSO](#), the [Salvation Army](#), [Poppy Project](#), [Migrant Help](#), [Medaille Trust](#), [Kalayaan](#), [Barnardos](#), [Unseen](#), and [New Pathways](#).

3.177 First responders then refer the case on to trained specialists in one of the UK's two 'competent authorities': the UKHTC, which deals with referrals from the police, local authorities, and NGOs, or the Home Office, which deals with referrals identified as part of the immigration process, for example where trafficking may be an issue as part of an asylum claim.

3.178 [Children and Families Across Borders](#) (CFAB) is an independent charity which works with children and their families facing social, legal or personal issues with an international dimension - assisting children who have been separated from their families as a consequence of trafficking, abduction, migration and seeking asylum. CFAB provides inter-country casework services directly to individuals and families or in partnership with relevant authorities to ensure children are safeguarded when they cross international boundaries and that their right to family life is respected. It also delivers advice and training about inter-country social work and lobbies and advise Government to ensure legislation, regulations, policies and procedures support the best interests of children separated across international borders from their families.



## Children who run away from home and care

### Definition and key issues

3.179 An estimated 100,000 children and young people under the age of 16 run away in the UK each year. One in nine children runs away overnight at least once before the age of 16. Where a child or young person regularly goes missing from either a home or care setting, they are vulnerable not just to missing education, but also in relation to both safeguarding and criminal justice issues. Schools, because of daily registration have an important role to play in identifying when a child or young person is missing from school.

3.180 Children are at significant risk of being harmed while away, and many children turn to risky survival strategies. A quarter of children who run away are at high risk of harm, as they may be hurt or harmed, sleep rough or beg and steal to survive. A recent survey by the Children's Society, [Still Running 3](#), found that one in nine (11%) children said that they had been hurt or harmed while away from home on the only or most recent occasion. One in six (18%) children said that they had slept rough, or stayed with someone they just met, for at least some of the time they were away. One in eight (12%) of children said that they had stolen while away and one in 11 (9%) said that they had begged.

3.181 Many children run away repeatedly - just under a third of children who run away do so at least three times. Nearly one in 10 run away up to nine times. Just over one in 20 run away 10 times or more. These children are at greater risk.

3.182 A significant proportion run away for long periods - the majority run away overnight but a quarter run away for between two to six nights. One in five run away for more than a week and half of those will be away for more than four weeks.

3.183 Children are often forced to run away - a quarter of children say they ran away because they were told to leave or were physically forced to go. This is the equivalent of almost 70 children every day or three children every hour.

3.184 Many children are not reported missing - most children are not known to professional agencies while away from home. Seven out of ten of children are never reported as missing to the police by their parents. The runaway children themselves remain suspicious of the authorities and so do not seek help - only 5% of children who run away will actively seek professional help from agencies such as social services, police, teachers and health services while they are away – either because they do not know what is available for them, or they are worried about the consequences of asking for help.

3.185 The risks faced by young people are the same regardless of how often they have run away from home. Runaways are five times more likely than their peers to have problems with drugs, are seven times more likely to have been physically abused and nearly half of sentenced prisoners report having

run away as children. While they are away substantial numbers of runaways are more likely to resort to crime to survive, and more likely to be the victims of a physical assault or sexually exploited. One in fourteen will end up begging, stealing or getting involved with drugs and prostitution.

### Statutory duties and guidance

3.186 The Welsh Government [Statutory guidance to help prevent children and young people from missing education](#) provides a practical toolkit to help identify children and young people missing education, including children who have run away from home. For more information, see the section above on children who go missing from education.

3.187 In 2011, the All Wales Child Protection Procedures Review Group produced the [All Wales Protocol on Children who Run Away or Go Missing from Home or Care](#). It provides practical advice and guidance to local authorities on the roles and responsibilities they have when dealing with children and young people who run away or go missing from home or care. The protocol forms part of the [All Wales Child Protection Procedures](#) and should be used in conjunction with the principles set out within the statutory guidance [Safeguarding Children: Working Together Under the Children Act 2004](#).

### Risk indicators

3.188 Research shows that the main causes of running away are family conflict and personal problems such as relationships, substance misuse, mental health problems, bullying and school truancy. Whatever the reason, running away is often a sign that something is wrong in the child or young person's life and a response must be made quickly.

3.189 Another trigger for children or young people going missing might be that they are being subjected to abuse. In these instances the local child protection arrangements must be instigated with the relevant authorities.

3.190 Children who run away come from all sections of society. However, some children are more likely to run away than others:

- Around 10% of girls run away, more than the numbers of boys (8%).
- Children who are disabled and who have difficulties with learning are twice as likely to run away than other children with respectively 19% and 18% of the total numbers doing so.
- Around 40%–50% of children living in residential care, foster care and other settings have run away at some point in their lives.
- A substantial number of children who run away do so at younger ages. Over a third of children who run away do so before the age of 13.
- Children are equally likely to run away in all types of geographical area – whether these areas are urban or rural, deprived or more prosperous.
- Children from Indian, Pakistani and Bangladeshi ethnic backgrounds are less likely to run away.
- Although children not living with family are more likely to run away,

most children who run away are living with their families.

- Children living with both birth parents have the lowest rates of running away. However, this study suggests that recent changes in family structure, such as parents separating or a step parent moving into the home, are more important than family structure in understanding why children are likely to run away.
- The quality of family relationships are more important than economic factors. Children who had recently run away reported less positive relationships with parents and higher levels of family conflict. One in five children living in these types of situations had run away in the past 12 months.

3.191 Other aspects of children's lives that impact on rates of running away include their friendships, their school experiences and their happiness with their lives as a whole. Children who run away are likely to have experienced:

- Poorer quality friendships compared to other children
- Unhappier school life. They may also be disengaged from education, which is likely to affect their future life chances.
- Low levels of subjective well-being. They are four times as likely to be unhappy with their lives as other children.

### Responding to concerns

3.192 Local Safeguarding Children Boards will have used the [All Wales Child Protection Procedures Review Group protocols](#) to establish detailed procedures for schools to follow regarding children or young people missing from care or who are looked after, are subject to a child protection plan or known to a statutory agency because there are developing concerns for their safety. This will involve notifying Social Services and the designated social worker or team manager.

3.193 In all other cases the head teacher should inform Social Services and the Education Welfare Service, of all young people whose whereabouts are unclear or unknown or if there is any suspicion that the child or young person may have run away. The Education Welfare Service will make enquiries, including a home visit, and liaise with social services, the local authority child protection officer and the police to ensure the child or young person is reported missing.

### Proactive approaches

3.194 Education services have an essential prevention/ early intervention role to play in providing information and support to all children to prevent them from running away. Personal social education (PSE) should include informing children and young people about the causes and risks of running away and about the services available to them for support.

3.195 Education service should also provide parents and carers with information about how and where to get help if a child is at risk of, or starts running away. This should include clear and comprehensive information about

the importance of reporting your child as missing and what support the police and other agencies can provide.

3.196 The agencies responsible for the care of looked after children should follow set procedures or protocols when co-ordinating their response to children and young people who go missing or run away from their placement.

## **Disabled children**

### **Definition and key issues**

3.197 The procedures for protection and safeguarding of children with a disability are essentially the same as for all other children. However, there is considerable evidence that children with a disability are at increased risk of abuse, and children with multiple disabilities appear to be at increased risk of both abuse and neglect.

### **Statutory duties and guidance**

3.198 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes guidance on abuse of disabled children.

3.199 Chapter 4.7 of the [All Wales Child Protection Procedures](#) covers abuse of children with a disability.

3.200 The Equality Act 2010 harmonises discrimination law and strengthens the law to support progress on equality. The Act protects pupils from discrimination, harassment and victimisation based on 'protected characteristics'. Disability is a protected characteristic.

3.201 Chapter 1 of Part 6 of the Equality Act states that a school must not discriminate against a disabled pupil or a prospective disabled pupil:

- in the way it provides education for the pupil
- in the way it affords the pupil access to a benefit, facility or service
- by not providing education for the pupil
- by not affording the pupil access to a benefit, facility or service
- by subjecting the pupil to any other detriment.

3.202 In addition, a school must not harass or victimise a pupil. This encompasses all activities covering school life, including bullying. It means that everything a school does must be non-discriminatory and may require schools to regularly review their practices, policies and procedures to ensure that they do not discriminate against disabled learners.

3.203 The key duties for schools in relation to disability discrimination are as follows:

- Not to treat a learner, because of the learner's disability, less favourably than it treats a non-disabled learner. This is direct discrimination and cannot be justified.

- Not to apply a provision, criterion or practice (such as an arrangement, rule or procedure) that applies to all learners if it has the effect, or would have the effect, of putting disabled learners at a substantial disadvantage in comparison with non-disabled learners and the provision, criterion or practice cannot be justified as a proportionate way of achieving the legitimate aim. This is indirect discrimination. The Act defines 'substantial' to mean more than minor or trivial. An example is where a school has a rule that all learners must demonstrate physical fitness before being admitted to the school. This would be unlawful unless the school can justify the rule.
- Not to treat a disabled learner less favourably because of a reason connected to their disability and where such treatment cannot be justified as a proportionate way of achieving the legitimate aim. This is discrimination arising from disability. The motive for the treatment does not matter. An example is where a teacher rearranges her classroom so learners are in small groups sitting around tables. This is to encourage group work which she thinks will be particularly useful for the next piece of work. Unfortunately the rearrangement results in a hearing impaired learner sitting sideways to the front of the classroom and so he is unable to easily lip-read when the teacher is speaking. Unlike direct discrimination, the learner does not have to show that the reason for the treatment is his disability. To show discrimination arising from disability he must instead show that the rearrangement of the classroom decision results in unfavourable treatment because of something arising in consequence of his hearing impairment.
- To take such steps, as it is reasonable to take, to avoid as far as possible by reasonable means, the substantial disadvantage which a disabled learner experiences because of disability. This is known as the reasonable adjustment duty. It means that schools must anticipate where barriers to learning lie and take action to remove them as far as they are able.

### **Risk indicators**

3.204 Disabled children face a range of barriers in schools and society in general which include:

- attitudinal barriers, particularly negative attitudes towards disabled people by non-disabled people, including employers, health professionals and service providers that prevent disabled people from achieving their full potential
- policy, resulting from policy design and delivery that do not take disabled people into account
- physical, e.g. through the design of the built environment, transport systems
- those linked to empowerment, as a result of which disabled people are not listened to, consulted or involved.

3.205 The available UK evidence on the extent of abuse among disabled

children suggests that disabled children are at increased risk of abuse, and that the presence of multiple disabilities appears to increase the risk of both abuse and neglect. Disabled children may be especially vulnerable to abuse for a number of reasons. Some disabled children may:

- have fewer outside contacts than other children;
- receive intimate personal care, possibly from a number of carers, which may both increase the risk of exposure to abusive behaviour, and make it more difficult to set and maintain physical boundaries;
- have an impaired capacity to resist or avoid abuse;
- have communication difficulties which may make it difficult to tell others what is happening;
- be inhibited about complaining because of a fear of losing services;
- be more vulnerable than other children to abuse by their peers;
- be placed at risk of abuse by a failure to recognise their particular needs or to provide appropriate safeguards, services or care;
- be especially vulnerable to bullying and intimidation.

3.206 Contact a Family has produced a guide to dealing with bullying: for parents of disabled children (2010) in which it suggests that disabled children are more vulnerable to bullying because:

- of negative attitudes towards disability
- of a lack of understanding of different disabilities and conditions
- they may be seen as 'different'
- they may not recognise that they are being bullied
- they may be doing different work or have additional support at school
- they may be more isolated than others due to their disability
- they may have difficulties telling people about bullying
- they may find it harder to make friends as a result of their condition
- they may exhibit bullying behaviour
- they may experience lots of transitions which means they have to settle into new environments. Examples of transitions are moving from a special unit to a mainstream school, spending periods of time in hospital and returning to school.

### **Responding to concerns**

3.207 Where there are concerns about the welfare of a disabled child, they should be acted upon in accordance with the All Wales Child Protection Procedures, in the same way as with any other child. The same thresholds for action apply. It would be unacceptable if poor standards of care were tolerated for disabled children which would not be tolerated for nondisabled children. Where a disabled child has communication difficulties or learning difficulties, special attention should be paid to communication needs, and to ascertain the child's perception of events, and his or her wishes and feelings.

3.208 Concerns about the welfare of a child with a disability should be acted upon in accordance with the guidance throughout these procedures with the additional considerations:

- Where a child has communication, learning difficulties, and /or emotional health problems special attention needs to be given to their communication needs and ascertaining the child's perception of events and their wishes and feelings;
- Social services and the police need to ensure staff undertaking interviews have been trained, and have access to appropriate specialist knowledge and resources. This will include using suitable interpreters or facilitators when appropriate;
- Practitioners need to be wary of assumptions about the inability of a child to give credible evidence. Care should be exercised in how information is sought from children who may have limited comprehension or means of communication.

### Proactive approaches

3.209 Many professionals refuse to believe that disabled children are subject to abuse or neglect and remain reluctant to challenge parents. Therefore particular attention needs to be paid to promoting a high level of awareness within those working with disabled children and their families of the risks and of the need for high standards of practice, and to strengthening the capacity of children and families to help themselves.

3.210 Measures include:

- making it common practice to help disabled children make their wishes and feelings known in respect of their care and treatment;
- ensuring that disabled children receive appropriate personal, health, and social education (including sex education);
- making sure that all disabled children know how to raise concerns if they are worried or angry about something, and giving them access to a range of adults with whom they can communicate. Those disabled children with communication difficulties should have available to them at all times a means of being heard;
- an explicit commitment to, and understanding of all children's safety and welfare among providers of services used by disabled children;
- close contact with families, and a culture of openness on the part of services; and
- guidelines and training for staff on good practice in intimate care, working with children of the opposite sex; handling difficult behaviour, consent to treatment; anti-bullying strategies; and sexuality and sexual behaviour among young people living away from home.

3.211 Local Safeguarding Children Boards in particular have an important role in safeguarding disabled children through:

- raising awareness among children, families and services;
- identifying and meeting inter-agency training needs, which encourage the 'pooling' of expertise between those with knowledge and skills in respect of

disabilities, and those with knowledge and skills in respect of child protection;

- ensuring that local policies and procedures for safeguarding children meet the needs of disabled children.

## **Domestic abuse**

### **Definition and key issues**

3.212 The Welsh Government defines domestic abuse as any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. The abuse can encompass but is not limited to:

- Psychological.
- Physical.
- Sexual.
- Financial.
- Emotional.

3.213 This definition includes so called ‘honour’ based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group.

3.214 Within this definition:

- *Controlling behaviour* is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.
- *Coercive behaviour* is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

3.215 Women and men can be victims of domestic abuse in heterosexual, lesbian, gay, bisexual and transgender relationships, and between family members. However, the great majority of domestic abuse is perpetrated by men against women and their children. Young women aged 16 to 24 years are most at risk of being victims of domestic abuse.

3.216 Children who live in households where there is domestic abuse are exposed to significant risk of harm. The definition of harm in [section 31\(9\) of the Children Act 1989](#) includes ‘*impairment suffered from seeing or hearing the ill treatment of another*’<sup>7</sup>. Either witnessing domestic abuse or being the subject is likely to have a damaging effect on the health and development of children, including behavioural issues, absenteeism, ill health, bullying, anti-

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<sup>7</sup> The definition of harm in section 31(9) of the Children Act 1989 was amended by section 120 of the Adoption and Children Act 2002



social behaviour, drug and alcohol misuse, self-harm and psychosocial impacts.

3.217 Statistics confirm the strong link between domestic violence and the abuse and neglect of children. One in three child protection cases shows a history of domestic violence to the mother. Children in violent households are three to nine times more likely to be injured and abused, either directly or while trying to protect their parent. One in five child abuse cases dealt with by the NSPCC involves domestic abuse; in nine out of ten cases, children or young people are present and are affected in the home while abuse is going on; and in about half the cases, there is abuse to children too.

### **Statutory duties and guidance**

3.218 In 2005 the Welsh Government launched [Tackling Domestic Abuse: The All-Wales National Strategy](#).

3.219 In 2007, it published [Domestic Abuse Guidance: Supporting People & Multi-Agency Working](#), a guide to assist commissioning bodies to ensure that an appropriate range of support and accommodation is available for households experiencing domestic abuse and to encourage partnership working to ensure that, appropriate policies, procedures and practices are implemented.

3.220 In 2009 the Welsh Government issued a good practice guidance document for people working in educational settings, [Safeguarding Children and Young People Affected by Domestic Abuse](#).

3.221 The same year, it launched the [Service Framework to meet the needs of people with Domestic Abuse and Substance Misuse Problems](#), to assist domestic abuse and substance misuse planners, commissioners and providers to establish robust links between Domestic Abuse and Substance Misuse services which will provide a seamless care pathway for all clients.

3.222 In 2010 the Welsh Government published [The Right to be Safe](#), a six year integrated strategy for tackling all forms of violence against women and children extending beyond domestic settings, including sexual harassment, rape, forced marriage, honour crimes (including murder) and female genital mutilation. This strategy includes a specific section on 'enhancing our response in schools.'

3.223 In 2011, the All Wales Child Protection Procedures Review Group launched the [All Wales Practice Guidance on Safeguarding Children and Young People Affected by Domestic Abuse](#). This provides guidance on safeguarding the children who, through being in households/ relationships, are aware of or are targeted as part of the domestic abuse.

3.224 The proposed Ending Violence against Women and Domestic Abuse (Wales) Bill is a key priority for the Welsh Government and will underpin our integrated 'Right to be Safe' strategy, for tackling all forms of violence against

women and domestic abuse. The [White Paper consultation](#), which set out the legislative and policy proposals, ran from November 2012 to February 2013; a summary of the consultation responses is published on the Welsh Government website. The legislation will focus on three specific areas: improving leadership and accountability; improving education and awareness; and strengthening services in Wales. Guidance to support the legislation will be produced when the legislation becomes law.

### **Risk indicators**

3.225 Schools and educational staff need to be alert to the signs of pupils who are living in a domestic abuse environment. Such indications may be truancy and non attendance, significant changes in behaviour and uncharacteristic emotional outbursts.

3.226 Pupils who have witnessed domestic abuse may exhibit behavioural problems or changes which may significantly affect their ability to learn. It is essential that staff recognise that children may require extra support in school when they have this experience. All staff should familiarise themselves with the following indicators which are illustrative rather than 'all inclusive':

- Child makes direct disclosure;
- Unexplained injuries/ bruises;
- Seasonally inappropriate clothing that covers up such injuries e.g. long sleeved jumper in the summer;
- Attending school late/ staying late after school; not taking part in extra-curricular activities;
- Faking illness to stay away from school/ attending school even when ill;
- Self harm; suicidal actions/ thoughts;
- Difficulty concentrating, confusion;
- Difficulties with sleeping or eating;
- Weight loss/ eating disorders;
- Nightmares and intrusive thoughts/ images of violence;
- Absence from school and/ or lower achievement at school;
- Truancy; poor attendance; running away from home;
- Anxiety; fear; low self esteem; withdrawal;
- Difficulties forming relationships with peers;
- Poor social skills/ highly developed social skills;
- Lack of conflict resolution skills/ lack of empathy for others;
- Emotional outbursts; aggressive and violent behaviours including bullying;
- Committing offences;
- Lack of trust;
- Advanced maturity/ sense of responsibility;
- Children who are delivered and collected from schools when it is no longer age appropriate;
- Secrecy about family life;
- Aggression/ anger toward a parent/ siblings; protective of a parent/ siblings;
- Alcohol and substance misuse.

## Responding to concerns

3.227 Where a teacher or other member of staff has cause to believe that a child is at risk from, or is the subject of, domestic abuse, the teacher with designated responsibility for child protection should be immediately informed and will take responsibility for making an appropriate referral to social services in accordance with the [All Wales Child Protection Procedures](#).

3.228 In general, allegations of domestic abuse should not be shared with the abusive partner. The importance of confidentiality is enhanced by the fact that adults and children may be at risk of further abuse if the abusive person becomes aware that the victim has spoken about the abuse to an outside agency. In addition, the victim/survivor may not wish other family members to know they have disclosed information about the abuse, or for other professionals to be told about the abuse. This information should not be shared without the victim's/survivor's permission. In situations where the victim/survivor gives permission, assessing agencies must ensure this is informed consent.

3.229 However, it should be made clear that confidentiality cannot be guaranteed when it directly conflicts with immediate risk to the safety of children, in chronic situations where the cumulative effects of the abuse are felt to be unacceptable or where there is any risk to life.

3.230 Whether or not a child or non abusive parent discloses, when a professional becomes aware of domestic abuse in a family, in order to assess and attend to immediate safety issues for the child/ren, non abusive parent and professional, the professional should establish:

- The nature of the abuse;
- If there are other children in the household. If so, the number of children, their age and whether they have special needs (young children and those with special needs are especially vulnerable because they do not have the ability to Implement safety strategies and are dependent on their non abusive parents to protect them);
- Whether the non abusive parent's partner is with them, and where the children are;
- What a child or non abusive parent's immediate fears are;
- Whether there is a need to seek immediate assistance; and
- Whether the child/ren and the non abusive parent have somewhere safe to go.

3.231 Professionals should not press the child for answers, instead validate and support children who disclose by:

- Listening to what the child/ non abusive parent says and taking what s/he says seriously;
- Explaining the need to make sure that s/he and others in the family are safe. This will mean by sharing information with professionals who can help the child/ren and/or non abusive parent to stay safe (limits of confidentiality).

- Reassuring the child/ren that the abuse (directed towards the non abusive parent and possibly also the child/ren) is not their fault, and it is not their responsibility to stop it from happening;
- Giving the child/ren several telephone numbers, including local police, local domestic abuse advocacy services (please refer to locally produced information), LA children's services departments and relevant regional and national services.

3.232 Professionals must ensure that their attempts to identify domestic abuse and their response to recognition or disclosure of domestic abuse do not trigger an escalation of violence. In particular, professionals should keep in mind that:

- The issue of domestic abuse should only ever be raised with a child or non abusive parent when they are safely on their own and in a private place; and
- Separation does not ensure safety; it often at least temporarily increases the risk to the child/ren or non abusive parent.

3.233 Professionals are at risk whenever they work with a family where one or more family members are abusive. Professionals should:

- Be aware that domestic abuse is present but undisclosed or not known in many of the families they work with;
- Ensure that any risk is communicated to other agency workers involved with the family;
- Ensure that they are familiar with their agency's safety at work policy;
- Not undertake a visit to a home alone where there is a possibility that an abusive partner may be present, nor see an abusive partner alone in the office; and
- Avoid putting themselves in a dangerous position (e.g. by offering to talk to the abuser about the non abusive parent or being seen by the abuser as a threat to their relationship).

3.234 Managers should ensure that professionals have the appropriate training and skills for working with children and their families experiencing domestic abuse, and use supervision sessions both to allow a professional to voice fears about abuse in a family being directed at them; and also to check that safe practice is being followed in all cases where domestic abuse is known or suspected. All organisations should ensure that their staff have the appropriate training and follow their own internal health and safety policies.

### **Proactive approaches**

3.235 Primary prevention work is core to stopping abuse before it happens. A key objective in Wales is to ensure that all organisations strive to create an environment in which children and young people are empowered. Issues need to be raised, challenged and discussed - to effect a positive change in behaviour and attitudes. Schools in particular can play a major part in challenging gender stereotypes. Culture is something we make: we must aim to create a school culture in Wales where diversity and individuality are embraced and where self-respect and respect for others are valued. Tackling

domestic abuse should be part of a 'whole school' ethos and part of the culture of other organisations such as youth work settings.

3.236 It is important that schools tackle the issue of domestic abuse. Domestic abuse is common but wrong. This knowledge in itself can bring comfort to any child or young person who has suffered or who is suffering domestic abuse at home.

3.237 Prevention work should be integrated where practicable into all aspects of school life and addressed at all appropriate points in the curriculum, for example in English, Welsh, Religious Education and [Personal and Social Education \(PSE\)](#). High quality PSE helps to create a positive school ethos where pupils have a safe environment in which to learn and have the opportunity and confidence to share concerns with others. Discussing the issues and listening to the views and opinions of peers can help change attitudes and provide support for those who are suffering domestic abuse. When discussing domestic abuse within PSE or any school context, it is important to be aware that children and young people could be at different stages of abuse: some will have experienced domestic abuse, some will be experiencing domestic abuse and some will experience domestic abuse in the future.

3.238 The Welsh Government recommends that schools display appropriate available domestic abuse leaflets and posters.

3.239 Schools can respond to domestic abuse in a variety of ways:

- as part of the 'Statement of Intent', schools could draw up with pupils a 'Mission Statement' to address domestic abuse;
- ensure that people with designated child protection responsibilities are trained to deal with domestic abuse issues and are confident in making a referral;
- include domestic abuse as part of the wider training in and whole school policy for Child Protection;
- become involved in multi-agency training and local Domestic Abuse Fora;
- use specific educational material to help children and young people understand the realities of domestic abuse;
- use visual stimulation - both videos and theatre work can be particularly useful to reach any child who is trying to learn a new language. However, it is important to understand that this medium can be particularly emotive;
- be aware that disclosure can come through other mediums, for example story writing and artwork;
- bring in individuals or groups such as Welsh Women's Aid, the Police and Hafan Cymru to talk to children and young people;
- ensure that the domestic abuse helpline number (All Wales Domestic Abuse 24-hour Free-phone Helpline 0808 80 10 800) is listed in relevant Pupil materials, for example homework diaries or school planners.

## Drug/alcohol abuse

### Definition and key issues

3.240 People who misuse drugs, alcohol or other substances cause considerable harm to themselves, their families, and the communities in which they live. This includes harm to their own physical and mental health and well being, and possibly to their ability to support themselves. They may harm their families' lives by damaging the health and wellbeing of their children and place a burden of care on other relatives (including their children), and may cause harm to children and young people at every age from conception to adulthood, including physical and emotional abuse and neglect. Almost half (46 per cent) of all incidents of domestic abuse are linked to alcohol<sup>8</sup>. Social services departments also report instances of children being sexually exploited as a result of their parents' or their own substance misuse.

3.241 There is an increased risk of violence in families where parents abuse substances. Children can suffer from lack of boundaries and discipline, and live chaotic lives. This can seriously affect their psychological and emotional development and may cause problems with their relationships later on in life. The children who are most vulnerable are those whose parents are violent, aggressive, neglectful or rejecting. These children can remain "invisible" from the services intended to support them unless their behaviour attracts attention at school, FE institution or elsewhere outside the home.

3.242 School is a key arena where the behaviour of young people can be informed and influenced. Schools also provide a structured environment where individuals at risk of exclusion because of their own or parental substance misuse can be identified and helped.

3.243 Estimates suggest that that there could be as many as 17,500 children and young people in Wales living in families affected by parental drug misuse<sup>9</sup>, and that 64,000 Welsh children may be adversely affected by parental alcohol problems<sup>10</sup>. Overall, it is estimated that around a third of all child care social work cases involve parental substance misuse. Increases in parental substance misuse, particularly more harmful drinking by mothers, have been identified as a key factor in the rise in the number of looked after children in recent years.

3.244 As well as the safeguarding issues in relation to children of drug and alcohol abusing parents, there is also concern about the risks to young substance misusers in Wales. Figures suggest that 44 per cent of 18-24 year olds in Wales and England report feeling very drunk at least once a month,

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<sup>8</sup> Welsh Government, [Working Together to Reduce Harm: The Substance Misuse Strategy for Wales 2008-2018](#), p.14

<sup>9</sup> Home Office, [Hidden Harm – Responding to the needs of children of problem drug users](#), 2003

<sup>10</sup> National Public Health Service for Wales, *Alcohol and health in Wales: A major public health issue*, 2006

two thirds of those admit to criminal and or disorderly behaviour during or after drinking<sup>11</sup>. A World Health Organisation (WHO) survey of 40 countries in Europe and North America put Wales at the top of the list of 13 year olds who had been drunk at least twice with 27 per cent of boys and 26 per cent of girls reporting this<sup>12</sup>.

3.245 The Welsh Government's 10 year strategy [Working Together to Reduce Harm: The Substance Misuse Strategy for Wales 2008-2018](#) states that 'the evidence shows that greater harm is being caused by alcohol misuse than drug misuse in Wales today'. The huge increase in drinking in the home is particularly worrying. The damage caused to young people's health and the wider community from violence and anti-social behaviour as a result of the misuse of alcohol is increasing.

3.246 The number of teenage pregnancies and the spread of sexually transmitted diseases are also linked to the increase in alcohol use amongst young people. Whilst suicide in children under 15 years of age is extremely rare; young people who misuse substances are at greater risk of suicide or self harm than the general population. Research suggests that substance misuse is an issue for around 60 per cent of children subject to care orders<sup>13</sup>.

### Statutory duties and guidance

3.247 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes a section on safeguarding children of substance misusing parents.

3.248 The Welsh Government's [Substance Misuse Delivery Plan 2013 - 2015](#) supports its 10 year strategy [Working Together to Reduce Harm: The Substance Misuse Strategy for Wales 2008-2018](#) and sets out the actions to be taken to reduce the harm caused by substance misuse.

3.249 Welsh Government Circular 17/02: [Substance Misuse, Children and Young People](#) is currently being revised, following a consultation in 2012. The [draft guidance](#) provides detailed information relating to the delivery of appropriate substance misuse education (SME) according to curriculum requirements and specific need, and substance misuse incident management including support, legislation and good practice.

3.250 The guidance states that education providers should have in place a substance misuse policy that includes both the education and management of incidents/ components of substance misuse to demonstrate the organisation's

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<sup>11</sup> Home Office, *Young People and Crime: Findings from the 2005 Offending, Crime and Justice Survey*. (Statistical Bulletin 17/06), 2006

<sup>12</sup> Currie, C., et al., 'Inequalities in young people's health. Health Behaviour in School-aged Children: international report from the 2005/2006 survey'. Copenhagen: WHO Regional Office for Europe, (*Health Policy for Children and Adolescents*; 5), 2008.

<sup>13</sup> Forrester, D. and Harwin, J., 'Parental substance misuse and child care social work. Findings from the first stage of a study of 100 families', *Child and Family Social Work*, 2006, 11, pp 325-335

approach to substance misuse. Organisations should also provide training and awareness-raising opportunities for all those affected by its policy to support its implementation.

3.251 Organisations should have a clear procedure for the management of substance misuse-related incidents within their policy documents, and have procedures in place to protect the welfare of any children and young people after a substance misuse incident. Responsibility for managing incidents should be delegated to named staff with appropriate training and experience.

3.252 Local authorities should support organisations in the development, implementation and review of effective substance misuse policies. Local authorities should also seek to create a local infrastructure that supports consistent and coordinated delivery of substance misuse education across organisations to ensure universal provision, equitable practice and appropriate funding. This should be coordinated alongside the Substance Misuse Advisory Regional Team (SMART)/ Community Safety Partnership (CSP)/ Substance Misuse Area Planning Board (SMAPB) to facilitate consistent messages across a range of organisations.

### **Risk indicators**

3.253 The Advisory Council on the Misuse of Drugs (ACMD) report [Pathways to Problems](#) presents a compelling analysis of why people take illegal drugs and what factors can lead people to become regular or problem users. The issues are complex but studies show that the risk factors for children and young people becoming substance misusers, young offenders, educational under-achievers, young parents or engaged with adolescent mental health services are very similar to one another:

- being a frequent truant;
- having a parent who is a problematic drug user and/or risky drinker;
- having ever been in care;
- being a young offender.

3.254 There is growing evidence about the risk factors that increase the likelihood of high substance misuse. These include:

- family factors (including poor parental supervision, a history of problematic behaviour and drug or heavy alcohol use by parents or siblings);
- lack of engagement at school;
- community disadvantage; and
- negative peer influences.

3.255 This is backed up by statistics that show that while only one per cent of non-vulnerable young people frequently use drugs, it is much higher among vulnerable groups. Those who frequently use drugs include 24 per cent of regular truants, 33 per cent of those ever homeless or in care and 39 per cent of those who are arrested.



## Responding to concerns

3.256 All professionals working with children and young people should be trained to identify and respond to substance misuse confidently, focusing on reducing harm and promoting well being. The priority should be to improve the training and competency of professionals and carers working with the most vulnerable young people.

3.257 It is important that arrangements are in place at Local Safeguarding Children Board (LSCB) level that enable child protection and substance misuse referrals to be made in relevant cases. Where children may be suffering significant harm because of their own substance misuse, or where parental misuse may be causing such harm, referrals will need to be made by substance misuse services in accordance with LSCB procedures. Where children are not suffering significant harm, referral arrangements also need to be in place to enable children's broader needs to be assessed and responded to.

3.258 It is the responsibility of LSCBs to take full account of the particular challenges and complexities of work in this area by ensuring that there are appropriate:

- LSCB policies and procedures in place;
- inter-agency protocols in place for the co-ordination of assessment and support, particularly across adult drug services and children's services; and
- close collaboration with local Community Safety Partnerships and local drug services, as well as a number of other agencies including health, maternity services, adult and children's social services, courts, prisons and probation services.

## Proactive approaches

3.259 [Working Together to Reduce Harm: The Substance Misuse Strategy for Wales 2008-2018](#) places a particular emphasis on prevention work with children and young people both in relation to alcohol and other substances. The Welsh Government aims to reach a position when no-one in Wales is ignorant of the consequences of misusing drugs or alcohol or where they can seek help and support.

3.260 This includes school-based education and support to raise awareness of the risk of substance misuse and the harms amongst children and young people, to provide them with the knowledge, skills and understanding they need to make informed choices when they encounter illegal drugs and legal substances such as alcohol, tobacco, medicines and volatile substances.

3.261 The All Wales School Liaison Core Programme (AWSLCP) is a joint Welsh Government/ Association of Chief Police Officers Cymru (ACPO Cymru) funded programme established in 2004 in recognition of the role schools and education can play in tackling anti-social behaviour, substance misuse and problems associated with personal safety. During the 2012/13

academic year, the scheme operated in 91% of primary and secondary schools across Wales.

3.262 Substance misuse education programmes in schools should make clear what is lawful and what is not, but must ensure that they do so in a way that does not seek to label children and young people who are taking illegal drugs or drinking underage as criminals. The aim should be for those individuals who are misusing drugs or substances or concerned about their parents or carers substance misuse, to seek further help or information.

3.263 School-based counselling services also provide personal support for children and young people who wish to discuss their problems, including substance misuse, with an independent adviser. The Welsh Government's [National Strategy on School-based Counselling Services in Wales](#) highlights the need for counselling services to develop protocols for working with other agencies including referrals to substance misuse agencies.

3.264 The Welsh Substance Misuse Helpline, [DAN 24/7](#), provides easy access 24 hours a day to information and advice (including about where to access further support or treatment).

## **Fabricated or induced illness (FII)**

### **Definition and key issues**

3.265 Fabricated/Induced Illness in children is a form of abuse not a medical condition.

3.266 Fabrication of symptoms and signs by a caregiver will result in harm to the child whether:

- as a direct result of the caregiver's actions; or
- as a result of unnecessary medical investigation and treatment.

3.267 The term FII (Fabricated/ Fictitious or Induced Illness) should be reserved for parents who are causing the child harm, or risk of harm, as a result of deliberate fabrication or induction of illness. The spectrum of cases will vary from the very mild to the severe and life threatening. The terminology used and the diagnostic criteria should be carefully considered. Another term in use is Paediatric Falsification.

3.268 There are three main ways of fabricating or inducing illness in a child. These are not mutually exclusive:

- fabrication of signs and symptoms. This may include fabrication of past medical history;
- fabrication of signs and symptoms and falsification of hospital charts and records, and specimens of bodily fluids. This may also include falsification of letters and documents;
- induction of illness by a variety of means.

## Statutory duties and guidance

3.269 In 2008 the Welsh Government published supplementary guidance to [Safeguarding Children: Working Together Under the Children Act 2004](#) entitled [Safeguarding Children in Whom Illness is Fabricated or Induced](#). This guidance provides a national framework for all agencies to use and recommends that professionals working together at a local level draw up more specific and detailed guidance to use in cases where an illness has been fabricated or induced in a child by a carer who has parenting responsibilities.

3.270 Chapter 5.3 of the [All Wales Child Protection Procedures](#) 2008 also contains a Fabricated Illness Protocol. This should be read in conjunction with the principles within Chapter 9 of [Working Together](#).

3.271 In addition, in 2002 the Royal College of Paediatrics and Child Health produced supplementary guidance on [Safeguarding Children in whom Illness is Fabricated or Induced](#) to provide a comprehensive overview of fabricated illness, and in particular the complex issues of working with families.

## Risk indicators

3.272 There are a number of factors that teachers and other school staff should be aware of that can indicate that a pupil may be the subject of fabricated or induced illness:

- Frequent and often unexplained absences from school;
- Regular absences to keep a hospital or doctor's appointment;
- Repeated claims by a parent/caregiver that a child is frequently unwell and that s/he requires medical attention for symptoms or illnesses that have not been observed by staff;
- Conflicting or patently untrue stories about illnesses, accidents or deaths in the family.

3.273 The following may also be present:

- Exaggerating real illness and symptoms;
- Fabrication of symptoms for example sleep apnoea, seizures, asthma attacks and allergy;
- Falsifying signs, tests and records, for example addition of blood or sugar to urine, false temperature records;
- Inducing physical illness, for example poisoning, suffocation, starvation or inappropriate diet;
- Sudden unexpected death of infant or child;
- False allegations of abuse;
- Encouraging or requiring the child to appear disabled, including learning disability and/or obtaining unnecessary specialist treatments or equipment for the child.

3.274 Schools should be aware of significant changes to a child's physical or emotional state, unexplained injuries, changes in behaviour and a failure to thrive.

## Responding to concerns

3.275 Where a teacher or other member of staff has cause to believe that a child is at risk from, or is the subject of, fabricated or induced illness, the teacher with designated responsibility for child protection should be informed immediately and should make an appropriate referral to social services in accordance with the [All Wales Child Protection Procedures](#).

## Female genital mutilation (FGM)

### Definition and key issues

3.276 Female Genital Mutilation (FGM), sometimes known as 'female genital cutting' or female circumcision, includes procedures that intentionally alter or injure female genital organs for non-medical reasons. It ranges from a symbolic prick to the clitoris or prepuce, to the fairly extensive removal and narrowing of the vaginal opening. All these forms of FGM have been found in the UK. It is defined by the World Health Organisation (WHO) as: 'all procedures (not operations) which involve partial or total removal of the external female genitalia or injury to the female genital organs whether for cultural or other non-therapeutic reasons.' Communities tend to use local names for this practice, including 'sunna'.

3.277 FGM is considered to be child abuse in the UK and is internationally recognised as a grave violation of the child's right to life, their bodily integrity as well as of their right to health. It cannot be justified as a cultural or religious practice and leaders of all the main faiths have spoken out against it. FGM is illegal, performed on a child who is unable to resist and who cannot be deemed to be giving any form of consent. In the UK, it is estimated that up to 24,000 girls under the age of 15 are at risk of FGM.

3.278 FGM can have serious consequences for a woman's health and in some instances can lead to death. Infections, severe pain, bleeding, urinary problems, and tetanus are just some of the short term consequences. In the long term, women can suffer from chronic pain, infections, cysts, abscesses, difficulty with menstruation, renal impairment and failure, damage to the reproductive system, increased risk of HIV and other sexually transmitted infections, and fertility problems. Women who have had FGM are significantly more likely to experience serious complications during childbirth including the need to have a caesarean section, dangerously heavy bleeding after the birth of the baby, prolonged hospitalisation following the birth, and maternal or foetal death. Women can also often suffer severe psychological trauma, mental health and psychosexual problems including flashbacks, depression, anxiety, and sexual dysfunction.

3.279 FGM is most often claimed to be carried out in accordance with religious beliefs, however it is not a religious requirement or obligation. FGM has no link with Islam and is not justified in the Koran. In 2006, top Muslim clerics at an international conference on FGM in Egypt pronounced that FGM is not Islamic. Globally most Muslims do not practise FGM. FGM is not

condoned by the Bible or Torah, or by Christian or Jewish teachings.

3.280 Many FGM-practising communities consider FGM an act of love rather than cruelty, and usually it is a girl's parents or her extended family who are responsible for arranging FGM, believing it to be in the child's best interests.

3.281 Some of the reasons given for the continued practice of FGM include: protecting their cultural identity and family honour, preserving tradition, ensuring a woman's chastity, cleanliness and as a preparation for marriage. In some cultures it is believed that a girl who has not undergone FGM is unclean and not able to handle food or drink.

3.282 Increasingly some health professionals are performing FGM in the mistaken belief that it offers more protection from infection and pain and makes childbirth safer. However, it has no health benefits, and the medicalisation of FGM is condemned by all international groups including the WHO.

### **Statutory duties and guidance**

3.283 [The All Wales Child Protocol on Female Genital Mutilation](#) produced by the All Wales Child Protection Procedures Review Group on behalf of Wales' Local Safeguarding Children Boards provides detailed guidance on this issue.

3.284 The Home Office has also produced [multi-agency guidelines](#) which set out the actions that should be taken by front-line professionals such as teachers, health professionals, police officers and social workers to protect girls and women and offer them the support they need.

3.285 In the UK, all forms of FGM are illegal under the [Female Genital Mutilation Act 2003](#). This Act replaced the previous Prohibition of Female Circumcision Act 1985. It is an offence for anyone (regardless of their nationality and residence status) to:

- perform FGM in the UK;
- assist the carrying out of FGM in the UK;
- assist a girl to carry out FGM on herself in the UK; and
- assist a non-UK person to carry out FGM outside the UK on a UK national or permanent UK resident.

3.286 The 2003 Act makes it an offence for the first time for UK nationals or permanent UK residents to:

- perform FGM abroad;
- assist FGM carried out abroad by a UK national or permanent UK resident – this would cover taking a girl abroad to be subjected to FGM;
- assist FGM carried out abroad by a non-UK person on a girl/woman who is a UK national or permanent UK resident – this would cover taking a girl abroad to be subjected to FGM;
- assist a girl to perform FGM on herself outside the UK; even in countries where the practice is legal.

3.287 To reflect the serious harm that FGM causes, the 2003 Act also increases the maximum penalty from 5 to 14 years' imprisonment.

3.288 The only defence in the 2003 Act is where surgery on a girl is performed for her physical or mental health, or during any stage of labour, or after just giving birth or for any purposes connected with the labour or birth and any such surgery is performed by a person approved within the meaning of section 1(3) of the 2003 Act.

3.289 There are two international conventions containing articles which can be applied to FGM. Signatory states, including the UK, have an obligation under these standards to take legal action against FGM:

- The [United Nations Convention on the Rights of the Child \(UNCRC\)](#), ratified by the UK Government on 16th December 1991, was the first binding instrument explicitly addressing harmful traditional practices as a human rights violation. It specifically requires Governments to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children;
- [The UN Convention on the Elimination of All Forms of Discrimination against Women](#), which came into force in 1981, recognises FGM as a form of gender based violence against women. It calls on signatory Governments to take appropriate and effective measures with a view to eradicating the practice, including introducing appropriate health care and education strategies.

### Risk indicators

3.290 UK communities that are most at risk of FGM include Kenyan, Somali, Sudanese, Sierra Leonean, Egyptian, Nigerian and Eritrean. Non-African communities that practise FGM include Yemeni, Afghani, Kurdish, Indonesian and Pakistani.

3.291 Signs that a child may be at risk of FGM or is being prepared for FGM to take place abroad include the family arranging vaccinations and making preparations for the child to take a holiday or planned absence from school, or a girl talking about a long holiday to her country of origin or another country where the practice is prevalent, including African countries and the Middle East. Girls are at particular risk of FGM during summer holidays, when families may take their children abroad for the procedure. The child may also talk about a 'special procedure' or a special occasion or ceremony that is going to take place. Many girls may not be aware that they may be at risk of undergoing FGM.

3.292 Indicators that FGM may already have occurred include prolonged absence from school or other activities with noticeable behaviour change on return, such as long periods of time away from the classroom during the day, possibly with bladder or menstrual problems, or requiring to be excused from physical exercise lessons without the support of her GP. Some teachers have described how children find it difficult to sit still and look uncomfortable, or may complain about pain between their legs, or talk of something somebody

did to them that they are not allowed to talk about. Professionals also need to be vigilant to the emotional and psychological consequences of the practice such as withdrawal and depression.

3.293 Any girl born to a woman who has been subjected to FGM, or who has a sister who has already have undergone FGM, must be considered to be at risk, as must other female children in the extended family. There should also be consideration of other children from other families, once concerns are raised about the incidence or the perpetrator of FGM.

### Responding to concerns

3.294 Any information or concern that a child is at immediate risk of, or has undergone, FGM should result in an immediate child protection referral to your local Social Services. FGM places a child at risk of significant harm and will therefore be investigated (initially) under Section 47 of the Children Act (1989) by Social Services and the Police Child Protection Team.

3.295 If you have concerns that a girl or young woman may be taken overseas for FGM then you should also contact the [Foreign and Commonwealth Office](#). [FORWARD](#) is a UK organisation which provides support, counselling and safe space for girls and women to talk about their experiences. They can also educate and work with families to prevent FGM happening to any other girls in the family.

3.296 A Female Genital Mutilation Helpline has been set up and operated by the NSPCC, supported by the Metropolitan Police, and in association with a number of voluntary and professional groups, including FGM charities. It is a UK-wide service which operates 24 hours a day, 7 days a week, and is staffed by specially trained child protection helpline counsellors who can offer advice, information, and assistance to members of the public and to professionals. Counsellors will also be able to make referrals, as appropriate, to statutory agencies and other services. The aim of this specialist helpline is to improve the safeguarding of children in the UK by increasing the detection and protection of children at risk or who have become victims of female genital mutilation. It will also facilitate, as necessary, the sharing of information with police and relevant agencies so that intelligence can be gathered and appropriate action taken against those who facilitate female genital mutilation against children. The helpline can be contacted on 0800 028 3550 and emails sent to [fgmhelp@nspcc.org.uk](mailto:fgmhelp@nspcc.org.uk).

## Forced marriage and honour-based violence

### Definition and key issues

3.297 Forced marriage is an entirely separate issue from arranged marriage, and the two should not be confused. Arranged marriages are perfectly legal and lead to successful and stable relationships between willing, consenting partners. A forced marriage is where one or both people do not (or in cases of people with learning or physical disabilities, cannot) consent to the

marriage and pressure or abuse is used. Forced marriage and holding people against their will is illegal.

3.298 Forced marriage is a human rights abuse and falls within the Crown Prosecution Service definition of domestic violence and, where it affects children and young people, child abuse. The pressure put on people to marry against their will can be physical (including threats, actual physical violence and sexual violence) or emotional and psychological (for example, when someone is made to feel like they're bringing shame on their family). Financial abuse (for example, taking a person's wages or not giving them any money) can also be a factor.

3.299 Some forced marriages happen in the UK with no overseas element. Others involve a partner coming from overseas or a British citizen being sent abroad to marry. Some victims are tricked into going abroad by their families, only to find that their family have prepared a marriage for them without their knowledge or consent. They often do not know where to go for help.

3.300 The impact of such marriages can be severe, even fatal. Research shows that young Asian runaways tend to be clustered around the age (16) at which they are likely to be compelled to marry and there are disproportionate levels of actual and attempted suicides amongst teenage Asian girls.

3.301 For young women with limited freedom and at risk of forced marriage, schools and colleges may be the only location for accessing help. Misguided respect for cultural differences has sometimes led to neglect of the rights of individuals. In some cases there has been a failure to distinguish between forced and arranged marriage.

3.302 Honour based violence is a crime or incident, which has or may have been committed to protect or defend the honour of the family and/or community. It is not a form of violence but the reason or motive given or assumed for violence. It is a fundamental abuse of human rights, and should be viewed as a child protection issue.

3.303 Honour based violence sits within the wider framework of violence against women although it also includes male victims/ survivors. Whilst it can sit within the framework of domestic abuse as much of the violence does originate from intimate partners and the immediate family, further violence can be instigated by extended family and members of the community who support the family's actions or collude in or perpetrate the violence on behalf of the family.

3.304 Honour based violence manifests itself in a diverse range of ways with children and young people including forced marriage, rape, physical assaults, kidnap, threats of violence (including murder), female genital mutilation or witnessing violence directed towards a sibling or another family member. This highlights honour-based violence as a child protection matter where children are at risk of significant harm through physical, sexual, psychological and emotional abuse.



3.305 Honour based violence is perpetrated against adults and children for a number of reasons including (but not limited to):

- Controlling unwanted behaviour and sexuality (including perceived promiscuity; being gay, lesbian, bi-sexual or transgender)
- Protecting family honour
- Responding to family, community or peer group pressure
- Strengthening family links
- Protecting perceived cultural and/or religious ideals (misguided or dated)
- Retaining wealth, property or land within the family
- Preventing unsuitable relationships
- Assisting claims for residence and citizenship in the UK
- Perceived immoral behaviour including:
  - Inappropriate makeup or dress
  - Possession and/or use of a mobile phone
  - Kissing or showing other forms of intimacy in public
  - Rejecting a forced marriage
  - Being a victim of rape or other serious sexual assault
  - Inter faith relationships
  - Seeking a divorce

3.306 The commission of crimes against victims can be accompanied by forms of controlling behaviour including:

- House arrest
- Excessive restrictions
- Denial of access to any form of telephone, internet, contact with friends or outside the immediate family
- Denial of access to passports, birth certificates, bank accounts and other forms of official documentation

### **Statutory duties and guidance**

3.307 HM Government's [Multi-agency practice guidelines: Handling cases of Forced Marriage](#) published in July 2009 provides step-by-step advice to frontline professionals such as teachers, police officers, social and health.

3.308 It complements the statutory guidance [The Right to Choose](#), which came into force with the launch of the [Forced Marriage \(Civil Protection\) Act](#) in November 2008, which sets out the broader strategic responsibilities of Chief Executives and senior managers in tackling forced marriage locally.

3.309 [Forced marriage and learning disabilities: multi-agency practice guidelines](#) have been developed to help professionals dealing with forced marriage of people with learning disabilities. The guidelines are designed to help raise awareness of the issue and support practitioners in identifying the warning signs of this complex and often hidden practice.

3.310 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) includes guidance on forced marriages.

3.311 The Welsh Government has published a [Three-year action plan on Forced Marriage Honour Based Violence](#).

### **Risk indicators**

3.312 Although most cases involve young women and girls aged between 13 and 30, there are a significant number of male victims. [Statistics from the Foreign and Commonwealth Office's Forced Marriage Unit](#) show that in 2012 they gave advice or support related to a possible forced marriage in 1485 cases; 18 per cent of these cases featured male victims. It has also been estimated by the Council of British Pakistanis that nearly 40 per cent of forced marriages could involve reluctant men.

3.313 The majority of cases of forced marriage reported to date in the UK involve South Asian families. This is partly a reflection of the fact that there is a large, established South Asian population in the UK. However, it is clear that forced marriage is not solely a South Asian problem and there have been cases involving families from East Asia, the Middle East, Europe and Africa.

3.314 Young people rarely feel able to disclose their feelings about forced marriage. However there are some warning signs that may indicate the possibility of an impending forced marriage:

- absence and persistent absence, extended absence and failure to return from visits to country of origin;
- decline in behaviour, engagement, performance or punctuality;
- excessive parental restriction and control of movements and not allowed to attend extra curricular activities;
- history of siblings leaving education to marry early;
- fear about forthcoming school holidays;
- surveillance by siblings or cousins at school;
- evidence of self-harm, treatment for depression, attempted suicide, social isolation, eating disorders or substance abuse.

3.315 Forced marriage may become apparent when other family issues are addressed, such as domestic violence, self-harm, child abuse or neglect, family/ adolescent conflict or missing persons/ runaways.

### **Responding to concerns**

3.316 Cases of forced marriage can involve complex and sensitive issues that be reported immediately to the designated person for child protection (in the case of a child under the age of 18). The police and local authority social services department should also be contacted.

3.317 If there are concerns that a child (male or female) is in danger of a forced marriage, schools and FE institutions should contact the Government's [Forced Marriage Unit](#), where experienced caseworkers are able to offer support and guidance. Call 020 7008 0151 between 9am-5pm Monday to Friday or email [fmufco.gov.uk](mailto:fmufco.gov.uk).

3.318 All those involved should bear in mind that mediation as a response to forced marriage can be extremely dangerous and therefore under no circumstances should local authorities approach family members about a forced marriage, as they may agree with what is being done to the young person, and may themselves be involved in taking the young person abroad to force them into marriage. Approaching them could thus jeopardise a young person's safety and put them in greater danger of physical violence. Refusal to go through with a forced marriage has in the past, been linked to so called 'honour crimes'.

3.319 Those who seek to flee child or forced marriages are likely to turn for support to the general services available to women fleeing violence, including refuges. In order to provide effective protection to those vulnerable to, or fleeing, forced marriage there needs to be appropriate training for those professionals (especially law enforcement and social services) on the specifics of this practice and the dangers of transplanting family re-unification procedures from other areas of social work.

### **Proactive approaches**

3.320 People at risk need to be aware of this practice, and to know what to do and where to turn if it happens to them. Awareness raising and prevention should form a key part of every local authority's response to forced marriage. This can be done by:

- focusing on warning signs in schools, colleges, youth settings and within local communities so that victims are aware of their options, how to seek help and what assistance is available to them within the local area;
- providing training and support for practitioners of the issues surrounding forced marriage, the danger the victims face and help that can be offered;
- increasing access to reporting facilities for young people;
- improving forced marriage co-ordination and joint working between all key agencies and services in relation to any Forced Marriage forums or protocols (schools, EWOs, Social Services, Education Departments, police and the voluntary sector)

3.321 Educational establishments should aim to create an "open environment" where students feel comfortable and safe to discuss the problems they are facing – an environment where forced marriage is discussed openly within the curriculum, and support and counselling are provided routinely. Students need to know that they will be listened to and their concerns taken seriously.

3.322 Schools, colleges and universities can create an "open" and supportive environment by:

- Circulating and displaying copies of Forced Marriage Unit posters on forced marriage;
- Displaying relevant information e.g. details of the NSPCC Asian Child Protection Helpline, Child Line, Careline and appropriate black and minority ethnic women's groups;

- Ensuring that a private telephone is made available should students need to seek advice discreetly;
- Educating teachers, lecturers and other staff about the issues surrounding forced marriage and the presenting symptoms – appropriate training should be included in continuing professional development (CPD);
- Referring students to an education welfare officer, pastoral tutor, learning mentor or school counsellor as appropriate; and
- Encouraging young people to access appropriate advice, information and support.

3.323 Schools and colleges can introduce forced marriage into the curriculum by discussing different types of marriage (love matches, arranged and forced marriages) within relevant classes. These include Personal and Social Education (PSE), Citizenship, Religious Education, Drama, English Literature, History and Sociology.

## **Foster care including private fostering**

### **Definition and key issues**

3.324 Children looked after in foster care are often the most vulnerable in society. The majority of foster carers provide children with good quality and safe care. However the fact that foster care is undertaken in the privacy of a caregivers home may make it difficult to identify abuse taking place and for children to voice their concerns.

3.325 Any allegation or concern about abuse or suspected abuse in relation to a foster carer or any member of the foster carer's household must be referred to the social services managers responsible for child protection, looked after children and fostering. It is important for both the child and caregiver that all concerns are fully and rigorously investigated. An allegation against a foster carer has serious implications for them and their families.

3.326 The risk of abuse of children subject to private fostering arrangements was highlighted by the [Victoria Climbié enquiry](#) in 2000. All professionals have a duty to notify the local authority if they become aware of a private fostering arrangement.

3.327 A private fostering arrangement is a private agreement without the involvement of a local authority for the care of a child under the age of 16 (under 18, if disabled) with someone other than a parent or close relative with the intention of it lasting for 28 days or more. A private foster carer may be a friend of the family, the parent of a friend of the child, or someone previously unknown to the child or their family but who is willing to privately foster the child. Both the private foster carers and the persons with parental responsibility are required to notify the local authority of the arrangement.

## Statutory duties and guidance

3.328 In 2011 the Welsh Government published [Protecting Children, Supporting Foster Carers: A Toolkit for Dealing with an Allegation of Abuse](#) to assist fostering services in the public and independent sectors and child protection managers in dealing with allegations against foster carers.

3.329 The [Children Act 2004](#) establishes duties on all local authorities to promote awareness about the need to notify the authority about any privately fostered children living in their area.

3.330 Teachers and other professionals should notify the local authority of any private fostering arrangement that comes to their attention, where they are not satisfied that the local authority has been or would be notified of the arrangement. It is good practice to inform the foster parents of the referral but if it is considered that this could place the child at risk of harm then it is not necessary to obtain the consent of the foster parents.

3.331 It is the duty of every local authority to satisfy themselves that the welfare of children who are privately fostered within their area is being satisfactorily safeguarded and promoted, and to ensure that such advice as appears to be needed is given to the private foster carers.

3.332 [The Children Act 1989](#) creates a number of offences in connection with private fostering, including failure to notify an arrangement or to comply with any requirement or prohibition imposed by the local authority. The [Children Act 2004](#) strengthened local arrangements for notification by inserting paragraph 7A of [Schedule 8 to the Children Act 1989](#). This requires local authorities to promote awareness in their area of notification requirements, and to ensure that such advice as appears to be needed is given to those concerned with children who are, or are proposed to be, privately fostered. This will include parents and private foster carers.

## Foreign exchange visits

### Definition and key issues

3.333 Learning outside the classroom is a strong theme that runs through all stages of education in Wales. Foreign exchange visits offer an invaluable opportunity for children and young people to experience other cultures, enrich their appetite for learning and use their language skills in a real context. However, exchange visits differ from other school trips as young people spend much of their time with host families, and are therefore not always under the direct supervision of teachers.

## Statutory duties and guidance

3.334 Local authorities and schools have a duty to ensure that appropriate arrangements are in place to safeguard and promote the welfare of children, under [Section 175 of the Education Act 2002](#) and [Section 28 of the Children](#)

[Act 2004](#). Therefore, it is important that schools and local authorities are clear about how they continue to meet their statutory duties for safeguarding children when making arrangements for foreign exchange visits.

3.335 The [Protection of Freedoms Act 2012](#) ('2012 Act') which came into effect in September 2012 amended the [Safeguarding Vulnerable Groups Act 2006](#) ('2006 Act') and made changes to safeguarding procedures for people who have close contact with children and vulnerable adults. It merged the former Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) to create the Disclosure and Barring Service (DBS).

3.336 The DBS helps prevent unsuitable people from working with vulnerable groups including children by undertaking criminal records checks (there are two types: 'standard' and 'enhanced' disclosure certificates). The DBS also decides who should be included in the two 'barred lists' of people who have harmed or pose a risk of harm to children or vulnerable adults and are not allowed to work with them in 'regulated activity'<sup>14</sup>.

3.337 The [Protection of Freedoms Act 2012](#) redefined 'regulated activity' as unsupervised activities (including teaching, caring for or supervising children) done 'regularly'<sup>15</sup> in a limited range of 'specified places' with the opportunity for contact with children and vulnerable adults. Activities performed by volunteers that are supervised<sup>16</sup> at a reasonable day to day level are no longer regarded as regulated activity. Regulated activity still excludes family arrangements and personal, non-commercial arrangements<sup>17</sup>.

3.338 Roles that fall within the new definition of regulated activity will require an enhanced DBS criminal record check and the appropriate barred list check. For roles that are not classed as regulated activity but that involve work with children, employers can still obtain criminal record checks but are not required to – but it is now unlawful to check whether someone is on a barred list unless they undertake regulated activity.

3.339 There are two ways that pupils may participate in foreign exchanges, with different implications for DBS checks of criminal records and barred lists:

a) **Foreign exchanges organised by schools**

3.340 A school or local authority will be classed as a 'regulated activity provider' under section 6(2) of the 2006 Act if it is responsible for the management or control of regulated activity; or it makes, or authorises the making of, arrangements (whether in connection with a contract of services or for services or otherwise) for another person to engage in regulated activity.

3.341 Where a school organises a foreign exchange visit, it should carry out

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<sup>14</sup> Part 1 of Schedule 4 to the 2006 Act

<sup>15</sup> 'Regularly' means carried out by the same person frequently (once a week or more often), or on four or more days in a 30 day period (or in some cases, overnight).

<sup>16</sup> To determine if supervision is adequate, organisations must have regard to the [Statutory Guidance on Supervision](#) issued by the Secretary of State for Education.

<sup>17</sup> Section 58 of the 2006 Act

Enhanced Disclosure and barred list checks on the adults who will be providing care and accommodation to the visiting child because those adults will be engaged in regulated activity. The checks should be performed before the visiting child's arrival.

3.342 A local authority or school commits an offence if it knowingly allows a barred person to work in regulated activity<sup>18</sup>.

3.343 An arrangement where a visiting child stays with a host family for 28 days or more is regarded as a 'private fostering arrangement'. In such circumstances the school and the carers must notify the local authority<sup>19</sup>.

3.344 The DBS cannot access criminal records held overseas. Foreign host families can therefore not be checked in the same way by local authorities and schools in Wales when pupils stay abroad. Schools should work with partner schools abroad to ensure that similar assurances are undertaken prior to a visit. If they wish, local authorities and schools can contact the relevant [foreign embassy](#) or High Commission of the country in question and find out if similar checks can be done in that country.

#### b) Foreign exchanges organised by parents

3.345 Where parents organise a foreign exchange, or exercise their own judgment and accept the responsibility for selecting the host family, it is considered to be a private arrangement between the two families and therefore falls within the scope of a 'family and personal arrangement' under the 2012 Act, and is excluded from regulated activity. Therefore, DBS checks are not required. In such cases it is likely that a relationship has been established between the two families over time, so that the parents can make an informed choice about sending their child to stay with the host family.

#### Proactive approaches

3.346 As well as the disclosure and barring arrangements outlined above, additional measures should be considered to safeguard and promote the welfare of children during foreign exchanges. Whether an exchange is organised by a school, local authority or parents, there should be close liaison between exchange partners over arrangements for visits so that both are clear how pupils will be looked after, how they will be spending their time, and with whom.

3.347 Good practice would be for:

- **exchange pupils** to be encouraged to make contact by email and telephone well in advance of the visit;

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<sup>18</sup> Section 9 of the 2006 Act

<sup>19</sup> A local authority or school is a 'regulated activity provider' under section 6(3) of the 2006 Act, if it makes arrangements for another person to foster a child as a private foster parent and it has the power to end the arrangement.

- **parents** to make contact with each other to reassure themselves of the hosting arrangements;
- **schools** to seek to establish stable, long-term, reciprocal relationships with partner schools overseas, which they keep constantly under review.

3.348 The list below sets out some of the issues that should be taken into consideration when planning an exchange visit:

- Have families and young people been carefully matched with regard to issues such as gender, dietary requirements, religious belief, access and other specific requirements, and the host family been informed of relevant information, with appropriate consent?
- Are families been confirmed as suitable and no safeguarding concerns have been raised?
- Are contingency plans in place to allow a child to be moved at short notice?
- Has a Code of Conduct/ expectations been shared with host families and all parties?
- Have sleeping arrangements been confirmed and privacy been provided for showering/ toilets etc?
- Has consideration been given to the safety and well-being of young people during travel? Does this include appropriate drivers/ transport whilst with the host family?
- Have young people been briefed on boundaries, meeting points and times, and the method to contact leaders if required?
- Are young people and host families aware of emergency procedures including access to a 24 hour contact number?
- Do leaders have daily contact with all young people and do young people have an agreed 'keyword' which they can use which means 'I want you to visit me immediately'?
- Are regular, random visits to host families undertaken by leaders during the visit?
- Will young people have access to a phone and/or can they use a mobile phone to call or text messages if necessary to staff?
- Have young people been briefed about personal safety?
- Are young people provided with bilingual 'help cards' to carry, with contact names, numbers and key phrases?
- Have acceptable and unacceptable activities on 'family days' been discussed and has parent/ carer agreement been sought prior to the visit if necessary?
- Has the Foreign and Commonwealth Office website or travel advice unit been consulted prior to the choice of host country and prior to the visit?

## **Physical contact with pupils/restraint**

### **Definition and key issues**

3.349 This section covers the broad range of strategies that involve a degree of physical power to prevent pupils from hurting themselves or others, damaging property or causing disorder. The range stretches from leading a



pupil to safety by the hand or arm, through to extreme circumstances where a pupil needs to be restrained to prevent violence or injury to themselves or others.

3.350 [Under section 93 of the Education and Inspections Act 2006](#), all school staff members have a legal power to use such force as is reasonable in the circumstances to prevent a pupil from doing, or continuing to do, any of the following:

- committing any offence (or, for a pupil under the age of criminal responsibility, what would be an offence for an older pupil);
- causing personal injury to, or damage to the property of, any person (including the pupil himself); or
- prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise

3.351 The staff to which this power applies are defined in [section 95 of the Act](#) as any teacher who works at the school, and any other person whom the head has authorised to have control or charge of pupils. This:

- includes support staff whose job normally includes supervising pupils such as teaching assistants, learning support assistants, learning mentors and lunchtime supervisors.
- can also include people to whom the head has given temporary authorisation to have control or charge of pupils such as paid members of staff whose job does not normally involve supervising pupils (for example catering or premises-related staff) and unpaid volunteers (for example parents accompanying pupils on school-organised visits).
- does not include prefects.

3.352 There is no legal definition of reasonable force. That will always depend on the precise circumstances of individual cases. To be judged lawful, the force used would need to be proportionate to the consequences it is intended to prevent. The degree of force used should be the minimum needed to achieve the desired result. Use of force could not be justified to prevent trivial misbehaviour.

3.353 It is always unlawful to use force as a punishment. This is because it would fall within the definition of corporal punishment, abolished by Section 548 of the Education Act 1996.

3.354 Schools should never seek to inhibit the ability of staff to use force by adopting a 'no contact' policy. The power to use force helps ensure pupil and school safety and the risk with a no-contact policy is that it might place a member of staff in breach of their duty of care towards a pupil, or prevent them taking an action needed to prevent a pupil causing injury to others.

### **Statutory duties and guidance**

3.355 The purpose of legislating on the use of force was to provide a clear and transparent power which enables staff to use reasonable force on pupils

in specified circumstances, whilst at the same time also protects children and young people from physical violence, injury or abuse, as set out in Article 19 of the United Nations Convention on the Rights of the Child.

3.356 In 2005 the Welsh Government issued its [Framework for Restrictive Physical Intervention Policy and Practice](#), to provide guidance for the development of policies on restrictive physical intervention. It enables statutory agencies working with children, young people, adults and older people in health, education and social care settings to share a common framework of principles and expectations. This reflects the fact that certain fundamental rights are common to all individuals in Wales, under the European Convention on Human Rights and Fundamental Freedoms and the Human Rights Act 1998.

3.357 The objective of policies and procedures for restrictive physical intervention must be to meet the identified need of any service user, at any given time, within the context of the particular service setting, whilst at the same time safeguarding the individual, those they interact with and those who provide services to them. This should be done by organisations having a threefold focus:

- Preventing the necessity for physically restrictive intervention through the development of preventative strategies;
- Working with the individual towards reducing the level of response needed where a potential need for restrictive physical intervention is identified as part of the individual planning/ service delivery process.
- Where situations requiring restrictive physical intervention are identified as unavoidable, ensuring that there is prior planning and training to ensure safer outcomes for all concerned.

3.358 In 2013 the Welsh Government issued specific guidance on [Safe and effective intervention: The use of reasonable force](#), which sets out how the power should be exercised, particularly to:

- help school staff to understand what the law means for them in practical terms;
- protect pupils by reducing the risks that force may be used inappropriately; and
- provide advice on good practice.

3.359 The guidance states that every Local Authority should have a policy on the use of restrictive physical interventions which should reflect an ethos of respect, care and safety in schools. It should be designed to:

- provide, with the guidance, a framework within which schools can develop their own policies;
- promote a coherent consistent and co-ordinated approach across different schools and, where appropriate, with other agencies;
- form a basis for monitoring the implementation of policies in schools;
- provide advice to schools on how to monitor and evaluate their own use of restrictive physical interventions so that practice is improved both locally and across the authority.

3.360 It is important that the local authority policy on use of restrictive physical interventions is developed in consultation with schools, other agencies and professional bodies including local safeguarding children boards. The local authority should make clear the extent to which its own policy reflects collaboration within the local authority and with other agencies. The greater the degree of collaboration, the greater the sense of joint ownership and common purpose. At the heart of the policy should be the clearly stated expectation that the use of physical intervention in schools should be reasonable and proportionate in the circumstances.

3.361 It is good practice for a school to have an explicit policy on the use of reasonable force to control or restrain pupils. It is also good practice for governors, staff, recognised trade unions, pupils and those with parental responsibility to be consulted about the policy and for the policy to be approved formally by the Governing Body and made known to staff, pupils and parents either as part of the school's behaviour policy or separately. Where the local authority provides a model policy on the use of force, maintained schools in particular may wish to take account of this in formulating and reviewing their own policies, whilst at the same time ensuring that they reflect the particular circumstances of their school.

3.362 It would be sensible for a school's policy on the use of force to describe both the kinds of circumstances the school regarded as justifying the use of force to restrain a pupil (for example, to prevent them injuring somebody) and the kinds of circumstances the school regarded as justifying the use of force to require a pupil to comply with a reasonable instruction (for example, to leave the classroom). All staff - authorised and unauthorised - need to understand their powers and the options open to them. They need to know what is acceptable and what is not. Similarly, all pupils should be made aware of what powers are available to school staff and the circumstances under which this power could be used.

3.363 A school's policy on use of force should be consistent with but not necessarily part of its behaviour policy. The Welsh Government guidance on the promotion of positive behaviour and school behaviour policies can be found in the [Inclusion and Pupil Support Circular 47/2006](#). It should also be consistent with the school's policies on child protection and health and safety.

### **Risk indicators**

3.364 The judgment on whether to use force and what force to use should always depend on the circumstances of each case and - crucially in the case of pupils with SEN and/or disabilities - information about the individual concerned.

3.365 Decisions on whether the precise circumstances of an incident justify the use of significant force must be reasonable. Typically such decisions have to be made quickly, with little time for reflection. Nevertheless, staff need to make the clearest possible judgments about:

- the seriousness of the incident, assessed by the effect of the injury, damage or disorder which is likely to result if force is not used. The greater the potential for injury, damage or serious disorder, the more likely it is that using force may be justified;
- the chances of achieving the desired result by other means. The lower the probability of achieving the desired result by other means, the more likely it is that using force may be justified; and
- the relative risks associated with physical intervention compared with using other strategies. The smaller the risks associated with physical intervention compared with other strategies, the more likely it is that using force may be justified.

### Proactive approaches

3.366 The focus should be on preventing, as far as possible, the need for the use of force on pupils, by creating a calm, orderly and supportive school climate that lessens the risk and threat of violence of any kind. The use of force should only be a last resort, schools should minimise the possibility of force being needed.

3.367 There are a number of steps which schools can take to help reduce the likelihood of situations arising where the power to use force may need to be exercised:

- creating a calm, orderly and supportive school climate that minimises the risk and threat of violence of any kind;
- developing effective relationships between pupils and staff that are central to good order;
- adopting a whole-school approach to developing social and emotional skills such as the Social and Emotional Aspects of Learning (SEAL) programme;
- taking a structured approach to staff development that helps staff to develop the skills of positive behaviour management; managing conflict and also to support each other during and after an incident. Further guidance is provided in the Welsh Government's [Inclusion and Pupil Support Circular 47/2006](#);
- effectively managing individual incidents. It is important to communicate calmly with the pupil, using non-threatening verbal and body language and ensuring the pupil can see a way out of a situation. Strategies might include, for example, going with the staff member to a quiet room, away from bystanders or other pupils, so that the staff member can listen to concerns; or being joined by a particular member of staff well known to the pupil; and
- wherever practicable, warning a pupil that force may have to be used before using it.

## Sexually active young people

### Definition and key issues

3.368 [The Sexual Offences Act 2003](#) sets the legal age for sexual activity, both heterosexual and homosexual at 16. It further states that children under the age of 13 are of insufficient age to give consent to sexual activity. In law, sexual activity with a child under the age of 13 years is a serious offence and reflects society's view that children of less than 13 years of age should not be sexually active and that their level of vulnerability to exploitation and sexual grooming is potentially significant.

3.369 All young people, regardless of gender, or sexual orientation who are believed to be engaged in, or planning to be engaged in, sexual activity must have their needs in respect of their health, education, support and/or protection assessed by the agency involved. This assessment must be carried out in accordance with information and guidance set out within the [All Wales Child Protection Procedures](#).

### Statutory duties and guidance

3.370 The [All Wales Child Protection Procedures](#) includes a protocol on safeguarding and promoting the welfare of sexually active young people (at chapter 5.4). The protocol is designed to assist those working with young people to identify where these relationships may be abusive and where children and young people may need safeguarding or additional services.

3.371 Professionals working with young people should be fully aware of the five points of the Fraser guidelines<sup>20</sup> in respect of the young person's capacity:

- The young person will understand the professional's advice;
- The young person cannot be persuaded to inform their parents;
- The young person is likely to begin, or to continue having, sexual intercourse without contraceptive treatment;
- Unless the young person receives contraceptive treatment, their physical or mental health, or both, are likely to suffer.
- The young person's best interests require them to receive contraceptive advice or treatment with or without parental consent.

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<sup>20</sup> The Fraser guidelines refer to the guidelines set out by Lord Fraser in his judgement of the House of Lords' case: Victoria Gillick v West Norfolk and Wisbech Health Authority and Department of Health and Social Security (1985). Although these criteria specifically refer to contraception, the principles are deemed to apply to other treatments, including abortion. The Fraser guidelines referred specifically to doctors but it is considered good practice for other health professionals, youth workers and health promotion workers to follow when giving contraceptive advice to young people under 16. For more information, the Family Planning Association has produced a fact sheet on consent issues, available at: <http://www.fpa.org.uk/professionals/factsheets/consent#cr5GGmSbtb17LwCW.99>

## Risk indicators

3.372 In order to determine whether a relationship presents a risk of harm to a young person, the following factors should be considered:

- Whether the child/young person is competent to understand, and consent to, the sexual activity they are involved in. The Fraser guidelines should be applied and decisions recorded;
- Where and with whom the child or young person resides, whether they are attending school or whether they or their siblings have involvement with social services or any social care agency etc;
- The nature of the sexual relationship between those involved, particularly if there are age or power imbalances;
- Whether overt aggression, coercion or bribery was or is involved including misuse of alcohol or other substances as a disinhibitor;
- Whether there is any element of commercial sexual exploitation including in particular the elements of affection, money, drugs, alcohol;
- Whether the child/young person's own behaviour, for example through misuse of alcohol or other substances, places him/her in a position where he/she is unable to make an informed choice about the activity;
- Any attempts to secure secrecy by the sexual partner beyond what would be considered usual in a teenage relationship;
- Whether methods used to secure a child or young person's compliance and trust and/or secrecy by the sexual partner are consistent with grooming for sexual exploitation. Grooming is likely to involve efforts by a sexual predator (usually older than the child or young person) to befriend a child/young person by indulging or coercing her/him with gifts, treats, money, drugs, developing a trusting relationship with the child/young person's family, developing a relationship with the child or young person through the internet etc in order to abuse the child/young person;
- Whether the child denies, minimises, or accepts concerns;
- Whether the sexual partner is known by one of the agencies as having or having had, other concerning relationships with children/young people which presupposes that checks will be made with the police;
- Whether the child or young person has learning needs;
- Whether the child has a history of being missing from home.

## Responding to concerns

### Children under the age of 13

3.373 Under [the Sexual Offences Act 2003](#), children under the age of 13 are of insufficient age to give consent to sexual activity. In all cases where the sexually active young person is under the age of 13, a full assessment must be undertaken by the agency involved. Each case must be assessed individually and consideration must be given to making a child protection referral to social services. In order for this to be meaningful, the young person will need to be identified, as will their sexual partner if details are known.

3.374 A decision not to refer to social services can only be made following a discussion of the case, with the designated / named lead for child protection within the professional's employing agency. When a referral is not made, the professional and agency concerned is fully accountable for the decision and the reasons for the decision must be clearly recorded.

3.375 When a girl under the age of 13 is found to be pregnant, a referral must be made to social services where an initial assessment will be completed and a strategy meeting/discussion will take place, which will include representatives from health and education.

3.376 The [Bichard Inquiry Report](#)'s recommendation 12 stated that the Government should reaffirm the guidance that the police are notified as soon as possible when a criminal offence has been committed, or is suspected of having been committed, against a child – unless there are exceptional reasons not to do so. The Welsh Government reaffirmed this recommendation in the guidance [Safeguarding Children: Working Together Under the Children Act 2004](#) in Chapter 8, para 8.29.

### Young people aged between 13 and 16

3.377 [The Sexual Offences Act 2003](#) reinforces that, whilst mutually agreed, non-exploitative sexual activity between teenagers does take place and that often no harm comes from it, the age of consent should still remain at 16. This acknowledges that this group of young people is still vulnerable, even when they do not view themselves as such.

3.378 Sexually active young people in this age group will still have to have their needs assessed using this protocol. Discussion with social services will depend on the level of risk/need assessed by those working with the young person. Consideration should be given to making a referral if the young person becomes pregnant or has a miscarriage or planned termination.

3.379 This difference in procedure reflects the position that, whilst sexual activity under 16 remains illegal, young people under the age of 13 are not capable of giving consent to sexual activity.

## Young people aged between 17 and 18

3.380 Although sexual activity in itself is no longer an offence over the age of 16, young people under the age of 18 are still offered the protection of child protection procedures under [the Children Act 1989](#). Consideration still needs to be given to issues of sexual exploitation through prostitution and abuse of power in circumstances outlined above. Young people, of course, can still be subject to offences of rape and assault and the circumstances of an incident may need to be explored with a young person.

3.381 For young people over the age of 16 and under the age of 18, there will be an imbalance of power and the child or young person will not be deemed able to give consent if the sexual partner is in a position of professional trust or is a family member as defined by [the Sexual Offences Act 2003](#).

## Sexually harmful behaviour and abuse by children and young people

### Definition and key issues

3.382 Children can pose a threat either physical or sexual to other children. The boundary between what is abusive and what is part of normal childhood or experimentation can be difficult to determine. Sexually harmful behaviour can refer to any child or young person who engages in a sexual act, either against the victim's will or without informed consent. Young children are unable to give informed consent, although they may comply with behaviour. Compliance may be secured via aggression, manipulation, fear or bribery. It is therefore necessary to consider inequalities in relation to age, power, status, physical size and position of authority when determining the potential dynamics of sexual activity and young people.

3.383 Even when sexualised behaviour is identified and a pupil is on a treatment programme, they still have to be educated and managed in a school or FE college setting. Management of this behaviour in school or FE college needs to be approached on a whole school, FE college, classroom, curriculum and individual level.

### Statutory duties and guidance

3.384 Chapter 9 of [Safeguarding Children: Working Together Under the Children Act 2004](#) provides multi-agency guidance on abuse by children and young people. It states that three key principles should guide work with children and young people who abuse others:

- there should be a co-ordinated approach on the part of youth justice, child welfare, education (including educational psychology) and health (including child and adolescent mental health) agencies;
- the needs of children and young people who abuse others should be considered separately from the needs of their victims; and



- an assessment should be carried out in each case, appreciating that these children may have considerable unmet developmental needs, as well as specific needs arising from their behaviour.

3.385 Chapter 4.9 of the [All Wales Child Protection Procedures](#) covers children who display sexually harmful behaviour. The Welsh Government has commissioned the All Wales Child Protection Procedures Review Group in collaboration with Barnardo's Cymru to produce an All Wales Protocol on Sexually Harmful Behaviour. The protocol will seek to promote a consistent approach across the agencies working in Wales with children and young people whose behaviour has caused concern.

3.386 In February 2013, a joint report was published by HM Inspectorate of Probation, HM Inspectorate of Constabulary, Ofsted, the Care Quality Commission, HM Inspectorate of Prisons, the Care and Social Services Inspectorate Wales, Estyn and Healthcare Inspectorate Wales, [Examining Multi-agency Responses to Children and Young People who Sexually Offend](#). It found that opportunities to intervene early were often missed by professionals, and that a sizeable number of children who sexually offended had been referred on previous occasions to children's services but the significance of their sexual behaviour was either not recognised or dismissed - representing a lost opportunity, both for the children themselves and their potential victims.

3.387 The report made a number of recommendations, including that Local Safeguarding Children Boards should promote effective joint work with children and young people who display, or are likely to develop, sexually harmful behaviour by:

- ensuring that in the Early Help Strategy the needs of children and young people who display, or are likely to develop, sexually harmful behaviour are identified and recognised, and that they are provided with help and intervention at the earliest possible opportunity;
- monitoring the effectiveness of the multi-agency response to such children and young people in their area, particularly including the identification of such cases, joint assessments and the interventions to them and their families and, where appropriate, their victims;
- developing and implementing strategies to address apparent deficits;
- establishing open channels of communication with the local Multi-Agency Public Protection Arrangements Chair and coordinator in cases where there is a shared interest.

### **Risk indicators**

3.388 Children living away from home are particularly vulnerable to abuse by their peers.

3.389 Children and young people who abuse others - including those who sexually abuse/offend - are likely to have considerable needs themselves. Such children and young people may be children in need, suffering or at risk of significant harm, and may themselves be in need of protection. Evidence suggests that children who abuse others may have:

- suffered considerable disruption in their lives,
- been exposed to violence within the family,
- witnessed or been subject to physical or sexual abuse,
- problems in their educational development,
- committed other offences.

### **Responding to concerns**

3.390 Abuse by children and young people should always be taken as seriously as abuse perpetrated by an adult. Where a teacher or other member of staff has cause to believe that a child is at risk from, or is the subject of, abuse, the teacher with designated responsibility for child protection should be immediately informed and will take responsibility for making an appropriate referral to social services in accordance with the [All Wales Child Protection Procedures](#).

3.391 Children and young people who abuse others should be held responsible for their abusive behaviour, whilst being identified and responded to in a way that meets their needs as well as protecting others. Therefore when another child or young person within or outside the family alleges abuse of a child, child protection procedures must be followed in respect of both the victim and considered in relation to the alleged abuser.

3.392 The needs of children and young people who abuse other children should be considered separately from the needs of their victims, and an assessment should be carried out in each case. This should address their emotional and therapeutic needs as well as being mindful of protecting other children from future abuse.

3.393 The welfare of other children, for example, those living in the same residential home, should also be considered.

3.394 There should be a co-ordinated approach to allegations of sexual abuse by children and young people that involves the Youth Offending Service as well as social services, police, education services (including educational psychology and education welfare), the health service (including child and adolescent mental health service) and specialist harmful behaviour services where available.

### **Proactive approaches**

3.395 Research from work with adult abusers has shown that many of them began committing abusive acts during childhood or adolescence and that significant numbers themselves have been subjected to abuse. Early intervention with children and young people who abuse others may, therefore,

play an important part in protecting the public by preventing the continuation or escalation of abusive behaviour.

3.396 Education staff need clear guidance and training to identify when relationships between children are coercive, inappropriate or exploitative. They need to be aware that children and young people may commit sexual offences. They should not dismiss abusive sexual behaviour as normal and adaptive, and need to know that a child under 13 cannot in law consent to sexual activity. Staff should avoid developing high thresholds before taking action.

## Chapter 4: Safer recruitment practice

### Introduction

4.1 Making safeguarding and promoting the welfare of children an integral factor in HR management is an essential part of creating safe environments for children and young people. It is vital that schools, FE colleges, and other education establishments adopt recruitment and selection procedures and other human resources management processes that help to deter, reject, or identify people who might abuse children, or are otherwise unsuited to work with them.

4.2 Safer practice in recruitment means thinking about and including issues to do with child protection and safeguarding and promoting the welfare of children at every stage of the process. It starts with the process of planning the recruitment exercise and, where the post is advertised, ensuring that the advertisement makes clear the organisation's commitment to safeguarding and promoting the welfare of children.

4.3 It also requires a consistent and thorough process of scrutinising applicants, verifying identity and any academic or vocational qualifications, obtaining professional and character references, checking previous employment history and that a candidate has the health and physical capacity for the job, and a face to face interview as well as, where appropriate, a criminal record check or barred list check from the Disclosure and Barring Service (for more guidance on this, please refer to Chapter 5).

4.4 This chapter provides advice about practice that should be followed to achieve that. It aims to assist all schools, including pupil referral units, non-maintained and independent schools, FE colleges, and local authorities exercising education functions, to review and, where appropriate, modify their practice and procedures in ways that will strengthen safeguards for children and young people by helping to deter and prevent abuse.

4.5 The measures described in this chapter should be applied in relation to everyone who works in an education setting where there are children under 18 who is likely to be perceived by the children as a safe and trustworthy adult. Those are not only people who regularly come into contact with children, or who will be responsible for children, as a result of their work. They are also people who regularly work in a setting such as a school when the pupils are present, who may not have direct contact with children as a result of their job, but nevertheless will be seen as safe and trustworthy because of their regular presence in the setting. This includes workers not on the payroll, e.g. staff employed by contractors, and unpaid volunteers.

4.6 This chapter is not a comprehensive guide to recruitment and selection or employment issues. It does not cover all the issues relevant to that subject. It is not a substitute for training in those areas, or in interviewing and assessment techniques. Head teachers, principals and others who recruit and select staff and volunteers and manage services and establishments will need

appropriate training as well as support and advice from their personnel or HR adviser to ensure their practice satisfies the requirements of employment law.

## **The recruitment process**

4.7 The main elements of the recruitment process include:

- ensuring the job description makes reference to the responsibility for safeguarding and promoting the welfare of children;
- ensuring that the person specification includes specific reference to suitability to work with children;
- obtaining and scrutinising comprehensive information from applicants, and taking up and satisfactorily resolving any discrepancies or anomalies;
- obtaining independent professional and character references that answer specific questions to help assess an applicant's suitability to work with children and following up any concerns;
- a face-to-face interview that explores the candidate's suitability to work with children as well as his or her suitability for the post;
- verifying the successful applicant's identity;
- verifying that the successful applicant has any academic or vocational qualifications claimed;
- checking his or her previous employment history and experience;
- verifying that s/he has the health and physical capacity for the job;
- where appropriate, an Enhanced Disclosure via the DBS. Chapter 4 provides detailed guidance on which checks are required for staff and volunteers working in education settings. (N.B. It is important not to rely solely on DBS checks to screen out unsuitable applicants. Those checks are an essential safeguard, but they will only pick up those abusers who have been convicted, or have come to the attention of the police, or who have been listed. Many individuals who are unsuited to working with children will not have any previous convictions, and will not appear on the DBS barred lists.)

## **Recruitment and selection policy statement**

4.8 The employer should have an explicit written recruitment and selection policy statement and procedures that comply with national and local guidance. The statement should detail all aspects of the process and should link to their child protection policy and procedures.

4.9 The policy statement should incorporate an explicit statement about the organisation's commitment to safeguarding and promoting the welfare of children. An appropriate statement should be included in any model recruitment and selection policy that a local authority or HR adviser provides to establishments. For example:

*“This authority/ school/ college is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment.”*

4.10 The statement should be included in:

- Publicity materials
- Recruitment websites
- Advertisements
- Candidate information packs
- Person specifications
- Job descriptions
- Competency frameworks
- Induction training

### **Planning and advertising**

4.11 Planning is vital to successful recruitment. It is important to be clear about what mix of qualities, qualifications and experience a successful candidate will need to demonstrate, and whether there are any particular matters that need to be mentioned in the advertisement for the post in order to prevent unwanted applications. It is essential to plan the recruitment exercise itself, identifying who should be involved, assigning responsibilities, and setting aside sufficient time for the work needed at each stage so that safeguards are not skimmed or overlooked. For example, it is important to organise the selection process to allow references to be obtained on shortlisted candidates before interview.

4.12 The person specification will need careful thought and drafting. The time and effort spent in this stage of the process should help minimise the risk of making an unsuitable appointment. It is also good practice to make sure that all the other material that will form part of the candidate information pack is up to date, and clearly sets out the extent of the relationships and contact with children, and the degree of responsibility for children that the person will have in the position to be filled. All work in a school or FE college involves some degree of responsibility for safeguarding children, although the extent of that responsibility will vary according to the nature of the post.

4.13 When a vacancy is advertised, the advertisement should include a statement about the employer's commitment to safeguarding and promoting the welfare of children, and reference to the need for the successful applicant to undertake an Enhanced Disclosure via the DBS, where appropriate, as well as the usual details of the post and salary, qualifications required, etc.

## Application form

4.14 Employers should use an application form to obtain a common set of core data from all applicants. It is not good practice to accept curriculum vitae drawn up by applicants in place of an application form because these will only contain the information the applicant wishes to present and may omit relevant details.

4.15 For applicants for all types of post the form should obtain:

- full identifying details of the applicant including current and former names, date of birth<sup>21</sup>, current address, and National Insurance number;
- a statement of any academic and/or vocational qualifications the applicant has obtained that are relevant to the position for which s/he is applying with details of the awarding body and date of award;
- a full history in chronological order since leaving secondary education, including periods of any post-secondary education or training, and part-time and voluntary work as well as full-time employment, with start and end dates, explanations for periods not in employment, education or training, and reasons for leaving employment;
- a declaration of any family or close relationship to existing employees or employers (including councillors and governors);
- details of referees. One referee should be the applicant's current or most recent employer, and normally two referees should be sufficient. Where an applicant who is not currently working with children has done so in the past it is important that a reference is also obtained from the employer by whom the person was most recently employed in work with children. The form should make it clear that references will not be accepted from relatives or from people writing solely in the capacity of friends; and
- a statement of the personal qualities and experience that the applicant believes are relevant to his or her suitability for the post advertised and how s/he meets the person specification.

4.16 The application form should include an explanation that the post is exempt from the [Rehabilitation of Offenders Act 1974](#) and therefore that all convictions, cautions and bind-overs, including those regarded as 'spent', must be declared. And it should require a signed statement that the person is not on a barred list, disqualified from work with children, or subject to sanctions imposed by a regulatory body, e.g. the General Teaching Council for Wales (GTCW), and either has no convictions, cautions, or bind-overs, or has attached details of their record in a sealed envelope marked confidential.

4.17 It should record that:

- where appropriate the successful applicant will be required to provide a DBS Disclosure at the appropriate level for the post;
- the prospective employer will seek references on short-listed candidates, and may approach previous employers for information to verify particular experience or qualifications, before interview;

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<sup>21</sup> To ask for date of birth is not discriminatory. This information is required to ensure correct identification of the candidate.

- if the applicant is currently working with children, on either a paid or voluntary basis, his or her current employer will be asked about disciplinary offences relating to children, including any for which the penalty is time expired (that is where a warning could no longer be taken into account in any new disciplinary hearing for example) and whether the applicant has been the subject of any child protection concerns, and if so, the outcome of any enquiry or disciplinary procedure. If the applicant is not currently working with children but has done so in the past, that previous employer will be asked about those issues; and
- providing false information is an offence and could result in the application being rejected, or summary dismissal if the applicant has been selected, and possible referral to the police.

4.18 Applicants for teaching posts should also be asked:

- whether s/he has Qualified Teacher status (QTS); and
- whether s/he is registered with the GTCW.

4.19 Applicants for teaching posts in FE colleges should be asked whether they have a teaching qualification, and for the details of this.

### **Job description**

4.20 This should clearly state:

- the main duties and responsibilities of the post; and
- the individual's responsibility for promoting and safeguarding the welfare of children and young persons s/he is responsible for, or comes into contact with.

### **Person specification**

4.21 This should:

- include the qualifications and experience, and any other requirements needed to perform the role in relation to working with children and young people;
- describe the competences and qualities that the successful candidate should be able to demonstrate;
- explain that if the applicant is shortlisted any relevant issues arising from his or her references will be taken up at interview;
- explain how these requirements will be tested and assessed during the selection process. For example:

*“In addition to candidates’ ability to perform the duties of the post, the interview will also explore issues relating to safeguarding and promoting the welfare of children including:*

- a. motivation to work with children and young people;*
- b. ability to form and maintain appropriate relationships and*



- personal boundaries with children and young people;*  
c. *emotional resilience in working with challenging behaviours; and*  
d. *attitudes to use of authority and maintaining discipline.”*

### **Candidate information pack**

The pack should include a copy of:

- the application form, and explanatory notes about completing the form;
- the job description and person specification;
- any relevant information about the local authority or establishment and the recruitment process, and statements of relevant policies such as the authority or establishment’s policy about equal opportunities, the recruitment of ex-offenders, etc;
- the establishment’s child protection policy statement; and
- a statement of the terms and conditions relating to the post.

### **Scrutinising and shortlisting**

4.22 All applications should be scrutinised to ensure that they are fully and properly completed, that the information provided is consistent and does not contain any discrepancies, and to identify any gaps in employment. Incomplete applications should not be accepted and should be returned for completion. Any anomalies or discrepancies or gaps in employment identified by the scrutiny should be noted so that they can be taken up as part of the consideration of whether to short-list the applicant. As well as reasons for obvious gaps in employment, the reasons for a history of repeated changes of employment without any clear career or salary progression, or a mid-career move from a permanent post to supply teaching or temporary work, also need to be explored and verified. All candidates should be assessed equally against the criteria contained in the person specification without exception or variation.

### **References**

4.23 The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. “To Whom It May Concern”. There have been instances of candidates forging references. Open references or testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments. Detailed guidance on references is provided further on.

### **Checks before interview**

4.24 If a short-listed applicant claims to have some specific qualification or previous experience that is particularly relevant to the post for which s/he is applying that will not be verified by a reference, it is good practice to verify the facts before interview so that any discrepancy can be explored at interview. The qualification or experience can usually be verified quickly by telephoning

the relevant previous employer and asking for written confirmation of the facts.

### **Involving pupils and students**

4.25 Involving pupils and students in the recruitment and selection process in some way, or observing short-listed candidates' interaction with them is common, and recognised as good practice. There are different ways of doing that. For example, candidates for teaching posts might be asked to teach a lesson, short-listed candidates might be shown round the school or FE college by students and a governor or senior member of staff, and/or meet with pupils and staff.

### **Interviews**

4.26 The interview should assess the merits of each candidate against the job requirements, and explore their suitability to work with children. The selection process for people who will work with children should always include a face-to-face interview even if there is only one candidate.

### **Invitation to interview**

4.27 In addition to the arrangements for interviews – time and place, directions to the venue, membership of the interview panel – the invitation should remind candidates about how the interview will be conducted and the areas it will explore including suitability to work with children. Enclosing a copy of the person specification can usefully draw attention to the relevant information.

4.28 The invitation should also stress that the identity of the successful candidate will need to be checked thoroughly to ensure the person is who he or she claims to be, and that where a DBS Disclosure is appropriate the person will be required to complete an application for a DBS Disclosure straightaway. Consequently all candidates should be instructed to bring with them documentary evidence of their identity that will satisfy DBS requirements, i.e. either a current driving licence or passport including a photograph, or a full birth certificate, plus a document such as a utility bill or financial statement that shows the candidate's current name and address, and where appropriate change of name documentation.

4.29 Candidates should also be asked to bring documents confirming any educational and professional qualifications that are necessary or relevant for the post, e.g. the original or a certified copy of a certificate, or diploma, or a letter of confirmation from the awarding body. N.B. If the successful candidate cannot produce original documents or certified copies, written confirmation of his or her relevant qualifications must be obtained from the awarding body.

4.30 A copy of the documents used to verify the successful candidate's identity and qualifications must be kept for the personnel file.

## **Interview panel**

4.31 Although it is possible for interviews to be conducted by a single person it is not recommended. It is better to have a minimum of two interviewers and, in some cases, e.g. for senior or specialist posts, a larger panel might be appropriate. A panel of at least two people allows one member to observe and assess the candidate, and make notes, while the candidate is talking to the other. It also reduces the possibility of any dispute about what was said or asked during the interview.

4.32 The members of the panel should:

- have the necessary authority to make decisions about appointment;
- be appropriately trained;
- meet before the interviews to:
  - a. reach a consensus about the required standard for the job to which they are appointing;
  - b. consider the issues to be explored with each candidate and who on the panel will ask about each of those; and
  - c. agree their assessment criteria in accordance with the person specification.

4.33 The panel should agree a set of questions they will ask all candidates relating to the requirements of the post, and the issues they will explore with each candidate, based on the information provided in the candidate's application and references (if available). A candidate's response to a question about an issue will determine whether and how that is followed up. Where possible it is best to avoid hypothetical questions because they allow theoretical answers. It is better to ask competence based questions that ask a candidate to relate how s/he has responded to, or dealt with, an actual situation, or questions that test a candidate's attitudes and understanding of issues.

## **Scope of the interview**

4.34 In addition to assessing and evaluating the applicant's suitability for the particular post, the interview panel should also explore:

- the candidate's attitude toward children and young people;
- his or her ability to support the authority or establishment's agenda for safeguarding and promoting the welfare of children;
- gaps in the candidate's employment history; and
- concerns or discrepancies arising from the information provided by the candidate and/or a referee.

4.35 The panel should also ask the candidate if they wish to declare anything in light of the requirement for a DBS Disclosure.

4.36 If, for whatever reason, references are not obtained before the interview, the candidate should also be asked at interview if there is anything s/he wishes to declare or discuss in light of the questions that have been (or will be) put to his or her referees. It is vital that the references are obtained

and scrutinised before a person's appointment is confirmed and before s/he starts work.

### **Conditional offer of appointment**

4.37 An offer of appointment to the successful candidate should be conditional upon:

- the receipt of at least two satisfactory references (if those have not already been received – see section on professional and character references later in Chapter 4);
- verification of the candidate's identity (if that could not be verified straight after the interview);
- where appropriate, a satisfactory DBS Disclosure;
- verification of the candidate's medical fitness;
- verification of qualifications (if not verified after the interview);
- verification of professional status where required e.g. GTCW registration, QTS status (unless properly exempted), National Professional Qualification for Headship (NPQH);
- (for teaching posts) verification of successful completion of statutory induction period (applies to those who obtained QTS after 7 May 1999);
- (for non teaching posts) satisfactory completion of the probationary period.

### **Pre-appointment checks**

4.38 It is important that thorough pre-appointment checks are made on anybody whose work will bring them into contact with children and young people, both to prevent unsuitable people from gaining access to children and young people and to maintain the integrity of the teaching profession.

4.39 Those who employ people to work in schools, or FE college staff providing education, must carry out the following recruitment and vetting checks on intended new appointees:

- identity checks;
- checks to confirm qualifications that are a legal requirement for the post, including: Qualified Teacher Status, registration with the GTCW and medical fitness requirements where appropriate;
- checks to confirm the right to work in the United Kingdom; and
- DBS disclosures (see chapter 5 for detailed guidance on DBS checks).

4.40 The requirement to carry out the above checks applies to school, FE college and local authority staff who make relevant appointments.

4.41 The same range of checks which are required for staff employed by schools and FE institutions are also required for supply staff, including those employed via employment agencies.

4.42 Under the [Conduct of Employment Agencies and Employment Businesses Regulations 2003](#), employment agencies and employment businesses are not allowed to introduce or supply a work seeker to a hirer

unless they have made checks to ensure that both work seeker and hirer are aware of any legal or professional body requirements, which either of them must satisfy to enable the work seeker to work for the hirer. So in the case of employment agencies and businesses supplying staff to schools or FE colleges, the agency should check that any supply staff have the qualifications required for the post the hirer is seeking to fill.

4.43 Schools and FE colleges must ensure that their contracts or arrangements with supply agencies impose an obligation on the agency to carry out the same checks as schools and FE colleges do for their staff. For each individual supply staff member, schools and FE institutions must confirm with the agency that the appropriate checks have been carried out and are satisfactory.

4.44 Local authorities, schools, and FE colleges should ensure that the terms of any contract they let that requires the contractor to employ staff to work with, or provide services for, children for whom the local authority, school or FE college is responsible also requires the contractor to adopt and implement the measures described in this guidance. They should also monitor the contractor's compliance. Further advice on the vetting of contractors is provided in Chapter 5. Schools and colleges should also ensure that those contracting with them to provide services that give rise to contact with children are carrying out appropriate checks.

4.45 Volunteers are seen by children as safe and trustworthy adults, and if a school or FE college is actively seeking volunteers, and is considering candidates about whom it has little or no recent knowledge, it should adopt the same recruitment measures as it would for paid staff. Specific guidance about whether volunteers require a DBS check is contained in Chapter 5.

4.46 All of the relevant checks should be satisfactorily completed before a person's appointment (N.B. in the case of DBS Disclosures, the certificate must be obtained before, or as soon as practicable after, appointment).

4.47 A record must be kept to show that the above checks have been carried out for all relevant employees.

4.48 All checks should be:

- confirmed in writing (in the case of agency staff, head teachers and principals must ask supply agencies to verify in writing that the relevant checks have been made);
- documented on the personnel file (subject to relevant advice contained in [the DBS Code of Practice](#) and the organisation's own data protection arrangements); and
- followed up where they are unsatisfactory or where there are discrepancies in the information provided.

4.49 Serious deliberate fraud or deception in connection with an application for employment may amount to a criminal offence (Obtaining Pecuniary Advantage by Deception). In such cases the employer should consider

reporting the matter to the police.

## **Identity**

4.50 It is important to be sure that the person is who he or she claims to be. In some cases the candidate will be known to the school or further education institution or will be employed by the local authority or a neighbouring establishment. If not, the employer should ask to see proof of identity such as a birth certificate, driving licence, or passport. If a teacher or worker is provided by a third party, such as an employment business or agency, the school or further education institution should check that the person who comes to them is the person referred by the employment business or agency. N.B. proof of identity will always be required in connection with the application to the Disclosure and Barring Service (DBS) for a Standard or Enhanced Disclosure.

4.51 Where an individual is provided by an agency, the school, local authority or FE college must check that the person who comes to them is the person referred by the agency by carrying out the identity checks detailed above.

## **Academic qualifications**

4.52 Employers should always verify that the candidate has actually obtained any academic or professional qualifications claimed in their application by asking to see the relevant certificate or diploma, or a letter of confirmation from the awarding institution. If original documents are not available, employers must see a properly certified copy.

## **Registration with the General Teaching Council for Wales**

4.53 All teachers with Qualified Teacher Status teaching in maintained schools, pupil referral units and non-maintained special schools in Wales are required to register with the General Teaching Council for Wales (GTCW). Employers must check with the GTCW whether teachers applying for positions in such schools are registered with the Council.

4.54 If a teacher is registered this means:

- they have Qualified Teacher Status. Anyone appointed or engaged to teach in a maintained school or non-maintained special school must either have QTS or come within one of the exceptions set out in the [Education \(Teachers' Qualifications and Health Standards\) \(Wales\) Regulations 1999](#);
- they have paid the annual GTCW registration fee;
- they are not included on a barred list;
- they have not failed the probation period;
- they have not been removed from the register because of a restriction imposed by the GTCW or any other General Teaching Council.

4.55 In accordance with section 3 of the [Teaching and Higher Education Act 1998](#), all teachers making an application to register with the General Teaching Council for Wales (GTCW) for the first time, or those teachers who have let their registration lapse, must undergo a suitability check by the GTCW. The suitability checks enable the GTCW to check qualifications; ensure satisfactory completion of an induction period; ensure there are no prohibitions or restrictions on employment, disciplinary orders or disqualifications; and undertake a full enhanced DBS check.

4.56 In addition, employers must ensure that checks on a teacher's identity, criminal record, medical fitness and references and previous employment history are carried out as set out below.

4.57 [The Education Act 2002](#) makes provision for the GTCW to carry out suitability checks on teachers applying for registration. These provisions came into force in May 2006. The Council may decide that as part of any suitability check it will undertake criminal record checks with the DBS for all new teachers applying for registration and teachers applying for re-registration after a period out of service.

4.58 The only teachers with QTS exempted from the requirement to be registered with GTCW are:

- teachers employed only to provide part-time education to persons over compulsory school age;
- or those providing full-time education only to persons who have attained the age of 19 years;
- or both such part-time and full-time education.

4.59 Those exempted from the requirement to hold QTS are:

- trainee teachers undertaking teaching practice;
- teachers working towards QTS through an employment based programme;
- teachers trained overseas but subject to time limitations; and
- unqualified teachers (e.g. instructors), where the school has been unable to find a qualified teacher with the necessary skills and expertise.

4.60 These exceptions do not apply to candidates for head teacher and deputy head teacher posts in maintained schools: they must have QTS.

4.61 Teachers who have trained overseas are currently exempt from the requirement to be registered with the GTCW or hold QTS although their employment is subject to time limitations – see the [Education \(Teachers' Qualifications and Health Standards\) \(Wales\) Regulations 1999](#). However, a teacher from the EEA may be awarded QTS on application or an overseas trained teacher may go on to be awarded QTS by following the Graduate Teacher Programme (GTP) in which case, the teacher would then need to be registered with GTCW.

## **Further education: recognised teaching qualifications**

4.62 The FE college must carry out DBS Enhanced Disclosures on those providing education and who regularly care for, train, supervise or have sole charge of persons aged under 18. This applies to teachers who are already qualified, working towards being qualified or those who are not yet qualified.

4.63 The Welsh Government is committed to having a fully qualified teaching workforce in FE. FE colleges must check the qualifications of new FE teachers. Regulations passed in 2001 required all new FE teachers to hold, or be working towards, a recognised teaching qualification. Full-time teaching staff must become qualified within two years of a place becoming available on an approved training course. For part-time staff the requirement is up to four years. Accepted qualifications are Post Graduate Certificate of Education (PGCE) or Certificate of Education (Cert. Ed) awarded by a Higher Education Institute (HEI).

## **Right to work in the UK documents**

4.64 Under the [Immigration, Asylum and Nationality Act 2006](#), employers have a duty to prevent illegal working by carrying out document checks to confirm if a person has the right to work in the UK. This duty applies to anyone who starts working for an employer on or after 29 February 2008. The previous rules under section 8 of the [Asylum and Immigration Act 1996](#) continue to apply to staff that started working for an employer between 27 January 1997 and 28 February 2008.

4.65 Employers must check that 'right to work' documents:

- have not expired (except UK passports, which can be expired);
- contain photographs which look like the employee;
- contain a date of birth which seems consistent with the employee's appearance;
- cover, in the visa, the type of work the employee will be doing (including any limit on the number of hours they can work); and
- that there is a good reason (e.g. marriage or divorce) if two documents have different names on.

4.66 Employers should check and keep copies of original, acceptable documents before someone starts work. If a person has a time limit on their stay then employers should carry out repeat checks at least once every 12 months. If a person has a restriction on the type of work they can do and, or, the amount of hours they can work, then they must not be employed in breach of these restrictions.

4.67 Under section 15 of the 2006 Act, if an employer does not carry out these checks, and is found to be employing an illegal worker, the employer may be required to pay a fine known as a 'civil penalty.' Under current regulations, a person could be fined up to a maximum amount of £10,000 for each illegal worker.



- 4.68 An illegal worker is defined as someone who is:
- subject to immigration control; and
  - aged over 16; and
  - not allowed to carry out the work in question because either they have not been granted leave to enter or remain in the UK or because their leave to enter or remain in the UK:
    - is invalid;
    - has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise; or
    - is subject to a condition preventing them from accepting the employment.

4.69 The UK Border Agency has produced a [Full guide for employers on preventing illegal working in the UK](#) aimed at employers and Human Resources staff involved in recruiting and employing people. It explains:

- the law on illegal working;
- the legal duties of employers;
- the document checks that employers must carry out;
- images of the various documents employers could be given;
- the various types of immigration statuses held by people; and
- the consequences of not carrying out document checks and being found to be employing an illegal worker.

4.70 Employers must not discriminate against anyone because of their nationality, and should treat all job applicants in the same way at each stage of your recruitment process. Employers should therefore ask all successful job applicants to present their documents before they start work. Employers should not make presumptions about a person's right to work in the UK on the basis of their background, appearance or accent.

4.71 To help employers comply with the law on illegal working by carrying out document checks without discriminating against individuals on the basis of their race, the UKBA has also published a [Code of Practice for employers on the avoidance of unlawful discrimination in employment practice while seeking to prevent illegal working](#).

4.72 Currently, the UKBA states that nationals of countries in the European Economic Area (EEA) can live and work in the UK without needing to apply under the UK's points-based system. Nationals of the following countries can work here without any restrictions:

- |                  |                  |                 |               |
|------------------|------------------|-----------------|---------------|
| • Austria        | • France         | • Latvia        | • Poland      |
| • Belgium        | • Germany        | • Liechtenstein | • Portugal    |
| • Cyprus         | • Greece         | • Lithuania     | • Slovakia    |
| • Czech Republic | • Hungary        | • Luxembourg    | • Slovenia    |
| • Denmark        | • Iceland        | • Malta         | • Spain       |
| • Estonia        | • Irish Republic | • Netherlands   | • Sweden      |
| • Finland        | • Italy          | • Norway        | • Switzerland |

4.73 There are different arrangements for nationals of Bulgaria and Romania (known as the 'A2 countries'), who may need to obtain an accession worker card before they can work in the UK, and their employer may need to obtain a work permit for them. The [UKBA website](#) provides detailed information on how to check that Bulgarian and Romanian workers have obtained the right to work here.

### **Professional and character references**

4.74 References should always be taken up, and should be obtained directly from the referee. It is not good practice to rely solely on references or testimonials provided by the candidate. We strongly advise that a reference should be obtained from the current or most recent employer.

4.75 The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. "To Whom It May Concern". There have been instances of candidates forging references, and open references or testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments.

4.76 Ideally, references should be sought on all short-listed candidates, including internal ones, and should be obtained before interview so that any issues of concern they raise can be explored further with the referee, and taken up with the candidate at interview. In exceptional circumstances it might not be possible to obtain references prior to interview, either because of delay on the part of the referee, or because a candidate strongly objects to their current employer being approached at that stage, but that should be the aim in all cases. It is up to the person conducting the recruitment to decide whether to accede to a candidate's request to approach his or her current employer only if s/he is the preferred candidate after the interview, but it is not recommended as good practice.

4.77 In any case where a reference has not been obtained on the preferred candidate before interview, the prospective employer should ensure that it is received and scrutinised, and any concerns are resolved satisfactorily, before the person's appointment is confirmed.

4.78 All requests for references should seek objective verifiable information and not subjective opinion. The use of reference pro formas can help achieve that. A copy of the job description and person specification for the post for which the person is applying should be included with all requests, and every request should ask:

- about the referee's relationship with the candidate, e.g. did they have a working relationship; if so what; how long has the referee known the candidate, and in what capacity;

- whether the referee is satisfied that the person has the ability and is suitable to undertake the job in question, and for specific comments about the applicant's suitability for the post, and how s/he has demonstrated that s/he meets the person specification; and
- whether the referee is completely satisfied that the candidate is suitable to work with children, and, if not, for specific details of the referee's concerns and the reasons why the referee believes the person might be unsuitable.

Requests for references should remind the referee that:

- they have a responsibility to ensure that the reference is accurate and does not contain any material misstatement or omission; and
- relevant factual content of the reference may be discussed with the applicant.

4.79 In addition to the above, requests addressed to a candidate's current or previous employer in work with children should also seek:

- confirmation of details of the applicant's current post, salary, and sickness record;
- specific verifiable comments about the applicant's performance history and conduct;
- details of any disciplinary procedures the applicant has been subject to in which the disciplinary sanction is current;
- details of any disciplinary procedures the applicant has been subject to involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, and the outcome of those; and
- details of any allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns e.g. whether the allegations or concerns were investigated, the conclusion reached, and how the matter was resolved.

4.80 On receipt references should be checked to ensure that all specific questions have been answered satisfactorily. If all questions have not been answered or the reference is vague or unspecific, the referee should be contacted and asked to provide written answers or amplification as appropriate. The information given should also be compared with the application form to ensure that the information provided about the candidate and his or her previous employment by the referee is consistent with the information provided by the applicant on the form. Any discrepancy in the information should be taken up with the applicant.

4.81 Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case. Cases in which an issue was satisfactorily resolved some time ago, or an allegation was determined to be unfounded or did not require formal disciplinary sanctions,

and in which no further issues have been raised, are not likely to cause concern. More serious or recent concerns, or issues that were not resolved satisfactorily are more likely to cause concern. A history of repeated concerns or allegations over time is also likely to give cause for concern.

### **Previous employment history**

4.82 Employers should always ask for information about previous employment and obtain satisfactory explanations for any gaps in employment. If a candidate for a teaching post or other post within an educational setting is not currently employed as a teacher or worker, it is also advisable to check with the school, further education institution or local authority at which they were most recently employed, to confirm details of their employment and their reasons for leaving.

### **Health**

4.83 Anyone appointed to a post involving regular contact with Children or young people should be medically fit (see [Education \(Teachers' Qualifications and Health Standards\) \(Wales\) Regulations 1999](#)).

### **DBS criminal record checks and barred list checks**

4.84 Chapter 5 provides detailed guidance on which staff require a criminal record or barred list check before taking up employment at a school or FE institution, and the new arrangements under the Disclosure and Barring Service introduced as a result of the [Protection of Freedoms Act 2012](#).

### **Post-appointment: maintaining a safer culture**

4.85 It is important that all staff in an establishment have appropriate training and induction so that they understand their safeguarding roles and responsibilities and are confident about carrying them out. Staff, pupils, students and parents also need to feel confident that they can raise issues or concerns about the safety or welfare of children, and that they will be listened to and taken seriously. That can be achieved by maintaining an ethos of safeguarding and promoting the welfare of children and young people and protecting staff which is supported by:

- a clear written statement of the standards of behaviour and the boundaries of appropriate behaviour expected of staff and pupils that is understood and endorsed by all;
- appropriate induction and training;
- regular briefing and discussion of relevant issues;
- including relevant material from the framework for Personal Social and Health Education in the curriculum;
- ensuring all those working with children in education settings are familiar with the good practice guidance which is in Annex A of this guidance; and
- a clear reporting system if a pupil, learner, member of staff or other person has concerns about the safety of children.

## Induction

4.86 There should be an induction programme for all staff and volunteers newly appointed in an establishment, including teaching staff, regardless of previous experience. The purpose of induction is to:

- provide training and information about the establishment's policies and procedures;
- support individuals in a way that is appropriate for their role;
- confirm the conduct expected of staff within the school or FE college;
- provide opportunities for a new member of staff or volunteer to discuss any issues or concerns about their role or responsibilities; and
- enable the person's line manager or mentor to recognise any concerns or issues about the person's ability or suitability at the outset and address them immediately.

4.87 The content and nature of the induction process will vary according to the role and previous experience of the new member of staff or volunteer, but as far as safeguarding and promoting the welfare of children is concerned the induction programme should include information about, and written statements of:

- policies and procedures in relation to safeguarding and promoting welfare e.g. child protection, anti-bullying, antiracism, physical intervention or restraint, intimate care, internet safety and any local child protection and safeguarding procedures;
- safe practice and the standards of conduct and behaviour expected of staff and pupils in the establishment;
- how and with whom any concerns about those issues should be raised; and
- other relevant personnel procedures e.g. disciplinary, capability and whistle blowing.

4.88 The programme should also include attendance at child protection training appropriate to the person's role.

### Newly Qualified Teachers (NQTs)

4.89 Induction supports the development of newly qualified teachers (NQTs) during their first year in post by encouraging them to focus and reflect on the advancement of their professionalism, knowledge, understanding and skills. Induction also provides induction mentors with professional development opportunities by ensuring that newly qualified teachers receive high quality induction through support, advice, feedback and encouragement.

4.90 Induction is a statutory requirement for all NQTs in Wales who gain qualified teacher status (QTS) after 1st April 2003. The statutory induction period provides all newly qualified teachers with a bridge from initial teacher education and training to effective professional practice. The induction period usually takes place over three full terms (i.e. one school year) or the equivalent, though there is flexibility for teachers who work part-time, have breaks in their employment or work on a short-term supply basis.

- 4.91 Induction in Wales comprises the following aspects:
- a programme of professional development, monitoring and support based around the core priorities in the areas that we know are key to improving standards of teaching and for improving learner outcomes. These priorities are literacy, numeracy, reducing the impact of poverty on attainment, additional learning needs (ALN), behaviour management, and reflective practice;
  - the support of a mentor throughout the induction period;
  - a 10% reduction in the newly qualified teacher's timetable (this is set in the School Teachers' Pay and Conditions Document);
  - assessment against the [Practising Teacher Standards](#) (PTS).

4.92 In order for a period of employment to count towards statutory induction, a newly qualified teacher must have qualified teacher status, must be registered with the General Teaching Council for Wales (GTCW) and must be employed in a maintained school or non-maintained special school.

4.93 The General Teaching Council for Wales is responsible for the administration of the funding of the induction programme. Further information can be found on the [GTCW website](#).

4.94 [Revised induction regulations](#) came into force on 1 September 2012 which have strengthened the induction arrangements by introducing more consistency in the content of induction and in the rigour of assessment. The changes will ensure a more robust approach to induction for NQTs. They will help to improve the quality of support provided to NQTs during their induction and assist in ensuring that all decisions made by the Appropriate Body (i.e. the local authority) at the end of the induction period are of the highest quality.

4.95 Further Education Institutions and independent schools can also offer statutory induction if they choose to, provided that they can comply with all aspects of the [Education \(Induction Arrangements for School Teachers\) \(Wales\) \(Amendment\) Regulations 2012](#).

4.96 For NQTs commencing their induction period on or after 1 September 2012, new arrangements will apply. The main changes include:

- NQTs will be required to complete an induction period of three school terms or the equivalent period of time as 380 school sessions (one session is equivalent to a morning or afternoon of teaching);
- NQTs without regular employment can accrue school sessions until 380 sessions have been completed;
- NQTs will be assessed against the [Practising Teacher Standards](#) (PTS) at the end of the induction period and will be required to gather evidence of how their practice meets the PTS;
- The support and supervision of the NQT will be carried out through a partnership between the school(s) where the NQT works and an external mentor working on behalf of the appropriate body;
- The introduction of an optional Masters in Educational Practice (MEP) for NQTs commencing their induction period from September 2012. This is intended to run concurrently with the induction period and

provide the basis for early professional development beyond the end of the induction period. Eligibility criteria for the MEP can be found at the [Cardiff School of Social Sciences website](#).

### **Monitoring and assurance**

4.97 Monitoring of both the recruitment process and induction arrangements will better inform for future recruitment practices. It should cover:

- staff turnover and reasons for leaving;
- exit interviews; and
- attendance of new recruits at child protection training.

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

### Introduction

5.1 Safeguarding children is everybody's responsibility, and clear, well managed arrangements for safeguarding should be built into routine procedures and practice. It is vital that schools, as well as agencies that supply staff to the education sector, adopt robust pre-employment vetting procedures that minimise the risk of employing people who might abuse children, or are otherwise unsuited to work with them.

5.2 This chapter sets out the vetting processes that must be followed by local authorities, all schools, including non-maintained and independent schools, FE colleges, supply agencies and contractors. It details the vetting checks that need to be made on all people who wish to work with children and young persons through a role in the education service, including teachers, other workers, paid and unpaid, school and FE college governors, overseas staff and agency staff working in educational establishments.

5.3 The guidance in this chapter sets out the new pre-employment vetting requirements that came into effect on 10 September 2012 as part of new disclosure and barring arrangements under the [Protection of Freedoms Act 2012](#). The chapter explains the background to the new disclosure and barring arrangements, how these changes affect the education sector, the vetting requirements that remain unchanged, and the records that must be kept of vetting checks.

5.4 While pre-employment vetting is a key preventative measure to minimise the possibility of children suffering harm from those in positions of trust, it is only one of a number of important elements in the recruitment process and should be considered together with other key aspects covered in more detail in Chapter 4, such as a candidate's application form, interview, references and knowledge of their employment history and experience.

5.5 Other measures must also be in place to safeguard children once staff are appointed. New staff should be appropriately trained and made aware of the school's child protection and safeguarding policies and procedures. Schools and FE colleges should also ensure that visitors report their arrival and departure to reception staff or a nominated individual, that they are clearly identified as visitors and are escorted and appropriately supervised for the duration of their visit. Observable working areas, where possible, and advice, guidance and training about appropriate behaviour, all contribute to making safer environments for pupils, staff and visitors. Vigilant, ongoing, day-to-day management is crucial, in order that unusual or concerning behaviour is picked up at the earliest opportunity.



## **Background to the new disclosure and barring arrangements**

### **The original Vetting and Barring Scheme (VBS) under the Safeguarding Vulnerable Groups Act 2006**

5.6 In 2002 the tragic murders of two schoolgirls, Holly Wells and Jessica Chapman, by their school caretaker Ian Huntley caused a public outcry which focused attention on the way in which people who work with children are vetted. A public inquiry was set up to look at the issue, led by Lord Bichard, and issued a [report](#) of its recommendations in 2004. Among other things, it called for a scheme for the registration of those people who wished to work or volunteer in certain specified roles with children or vulnerable adults.

5.7 As a result, the UK Government created the [Safeguarding Vulnerable Groups Act 2006](#). This provided for the introduction of the Vetting and Barring Scheme (VBS), designed to check the records of those who wanted to work with vulnerable groups.

5.8 Under the VBS, people who wished to work or volunteer with children or vulnerable adults would have had to undergo a process before starting work whereby information held on them was assessed. If they were assessed to pose a risk of harm to vulnerable groups then they would be barred from working or volunteering with these groups.

5.9 This concept of checking the suitability of those working with vulnerable people was not new, barring schemes having been in use since 1926. The VBS was designed to build on, and replace, the previous barring processes and was an attempt to establish a more consistent process for vetting individuals who wished to work or volunteer with children and vulnerable adults. These were:

- The Protection of Children Act (POCA) list;
- List 99 (information held under S142 of the Education Act);
- The Protection of Vulnerable Adults Act (POVA) list; and
- Court Disqualification Orders.

5.10 Those working very closely with children and vulnerable adults on a regular basis – known as ‘Regulated Activity’ and including roles such as teachers, nurses and social workers – would have to apply to become registered with the VBS, and hiring organisations would have to check that registration.

5.11 Individuals could not be registered if they were barred from working with children and vulnerable adults. Individuals could be barred in one of two ways:

- anyone convicted or cautioned for certain serious offences would be automatically barred from working with children and vulnerable adults, and so could not be registered; or

- where there was other information on an individual, a central authority (the Independent Safeguarding Authority) would consider whether to bar that individual, and would bar if the individual posed an ongoing risk to children or vulnerable adults.

5.12 The VBS would also have introduced a secondary type of activity (which could be either paid employment or volunteering), called ‘Controlled Activity,’ where individuals working in ancillary posts or who had access to sensitive information relating to children or vulnerable adults would also have had to be checked. This would have covered, for example, receptionists in outpatient clinics, catering staff and caretakers in further education colleges and hospital records clerks.

5.13 Originally, 11 million individuals would have been required to register with the VBS, as their work would have fallen within the definition of Regulated Activity with children or vulnerable adults.

5.14 In response to concerns about the scope of the Scheme, the then Government commissioned its Chief Adviser on the Safety of Children, Sir Roger Singleton, to conduct a review of the Scheme. Sir Roger Singleton’s report, [‘Drawing the Line’](#), published in December 2009, recommended a revised vetting and barring scheme, which would have involved some 9.3 million individuals.

### **Reviews of the VBS and Criminal Records Regime**

5.15 On taking office in May 2010, the Coalition Government stated in its ‘Programme for Government’ its commitment to scale back the VBS to more proportionate and “common sense” levels. In June 2010 Ministers announced that the planned implementation of the VBS due to commence in July 2010 was to be halted pending an internal review, and also commissioned an independent review of the Criminal Records Regime (CRR).

5.16 The Coalition Government believed that the VBS was a disproportionate response to the risk posed by a small minority of people who wished to commit harm to vulnerable people, creating a complex and cumbersome central bureaucracy which brought far too many people within its scope, and argued that the VBS had the counter-productive effect of deterring well-meaning adults from working with children and vulnerable adults. It believed that the VBS shifted the responsibility for ensuring safe recruitment too much away from the employer and towards the state, and that this encouraged risk-averse rather than responsible behaviour from employers by giving the impression that this central Scheme could manage all risk out of the system used for pre-employment checking.

5.17 In February 2011 the reports of the [VBS Remodelling Review](#) and the [first phase of the CRR review](#) were published. The reviews concluded that employers have a critical role to play in ensuring safe recruiting practices but that this should be supported by a proportionate central barring scheme. They also found that there was confusion as to why two different public bodies

– the Criminal Records Bureau and the Independent Safeguarding Authority – were involved in pre-employment checking. The VBS and CRR reviews made a number of recommendations which included:

- The planned registration of some nine million people with the ISA should be scrapped – there should be no requirement for people to register with the scheme and there will be no ongoing monitoring;
- The barring regime should be scaled back to cover only those who may have regular or close unsupervised contact with vulnerable groups;
- Criminal records checks should be portable, and
- An online system should be established to allow employers to check if updated information is held on an applicant.

## **Changes following the Protection of Freedoms Act 2012**

5.18 As a result of the reviews of the VBS and CRR, the UK Government made a number of changes to pre-employment vetting and barring systems. It replaced the planned VBS with new disclosure and barring arrangements included in the [Protection of Freedoms Act 2012](#).

5.19 The new disclosure and barring arrangements came into force on 10 September 2012. They retain some of the features of the VBS (including the duty to make referrals and the prohibition of engaging a barred person in regulated activity. However, the new disclosure and barring arrangements no longer requires registration or monitoring (removing the VBS planned database of over 9.3m people) and only covers those who may have regular or close contact with vulnerable groups, defined as “Regulated Activity” in legislation – repealing the “Controlled Activity” activity category. However for those individuals who do not work in regulated activity but nevertheless work, paid or unpaid, with vulnerable people, employers can, but will not be required to, obtain criminal records checks.

5.20 A number of other important changes were also introduced in September 2012 relating to information disclosed at a Chief Police Officer’s discretion, aimed at ensuring that information on a certificate is accurate, relevant and ought to be disclosed. This includes the opportunity to invite representations, a more rigorous relevancy test, and an Independent Monitor review process.

5.21 Other changes to disclosure and barring arrangements were introduced in June 2013, including certificates being issued only to applicants rather than registered bodies, and the launch of the DBS ‘Update Service’. This subscription service enables individuals to apply to have their criminal record check kept up to date so they can take their DBS certificates with them when they move from role to role. Employers can then carry out free, instant online Status Checks of an individual's certificate to see if any new information has come to light since the DBS certificate’s issue.

5.22 This section outlines in more detail the major changes under the new disclosure and barring arrangements:

- The establishment of a new Disclosure and Barring Service

- Applicant-only certificates – no longer sent to Registered Bodies but just to the individual themselves
- The DBS Update Service – making criminal record checks portable and employers able to access free online checks that certificates are still up-to-date and valid
- Repeal of registration and continuous monitoring
- Minimum age (16) at which someone can apply for a CRB check
- New definition of ‘Regulated Activity’
- Repeal of ‘Controlled Activity’
- Repeal of ‘Additional Information’
- More rigorous ‘relevancy’ test for when the police consider releasing information held locally on an Enhanced Disclosure Certificate
- Opportunity to invite Representations
- A new right for applicants to request a review by the Independent Monitor of locally held information released by the police

### **The new Disclosure and Barring Service (DBS)**

5.23 The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged and are now called the Disclosure and Barring Service (DBS). CRB checks are now called DBS checks.

5.24 The DBS helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children, through its criminal record checking and barring functions:

- **Criminal record checking** - The checking service allows employers to access the criminal record history of people working, or seeking to work in certain positions, especially those that involve working with children or adults in specific situations. The DBS issues three types of Disclosure, each representing a different level of check. The level of check is determined by the duties of the particular position or job involved. Jobs that involve caring for, supervising or being in sole charge of children or adults require an enhanced DBS check. This includes checking whether someone is included in the two DBS ‘barred lists’ (previously called ISA barred lists) of individuals who are unsuitable for working with children or adults.
- **Referrals and barring** - The barring side of the DBS provides expert caseworkers who process referrals about individuals who have harmed or pose a risk of harm to children and/or vulnerable groups. They make decisions about who should be placed on the children’s barred list and/or adults barred list and prevented by law from working with children or vulnerable groups. It is against the law for employers to employ someone or allow them to volunteer in this kind of work if they are on one of the barred lists.

## **Applicant-only certificates**

5.25 From 17 June 2013, the DBS will no longer send Registered Bodies a copy of an individual's DBS certificate. The change is part of the UK Government's aim to put the individual in greater control of their own data. Individuals will now be able to challenge the information released by the DBS, before it is seen by their current or prospective employer. Instead, the DBS will only issue certificates to applicants. Employers will need to ask applicants for sight of their DBS Certificate.

## **The DBS Update Service**

5.26 The DBS 'Update Service' will dramatically change the way individuals use their criminal record check and how employers check their suitability. It could mean no more application forms to complete and no waiting for the checks to come back. The Update Service will ultimately reduce the number of criminal record checks people need to have, saving everyone time and money.

5.27 From 17 June 2013, anyone who applies for their next criminal record check with the DBS (in the normal way) can choose to subscribe to the Update Service for £13 per year. This enables individuals to have their criminal record check kept up to date so they can take their DBS certificates with them when they move from role to role, within the same workforce, and may never need to apply for another one, ever again.

5.28 When an employer takes on new staff, if they have registered with the DBS Update Service, the employers can then carry out free, instant online checks of an individual's certificate (with their consent) to see if any new information has come to light since the DBS certificate's issue – this is called a Status check. When an individual subscribes to the Update Service, employers would only have to seek a new criminal record check if the system informs them that something has changed.

5.29 Status checks are free-of-charge and can be carried out as and when employers need to, as long as the individual has subscribed to the Update Service. The employer must also have the individual's consent either verbally or in writing (employers may want to get consent each time they perform a status check or may consider asking the individual for ongoing consent). Employers can choose to pay for or reimburse the applicant's annual Update Service subscription fee. The individual will be able to see who has carried out a Status check, and when they did, from their online account.

5.30 To carry out a Status check of an individual's a DBS Certificate, an employer must:

- have the applicant's consent;
- confirm that they are legally entitled to carry out the Status Check;
- see the original Certificate to check it is the same type and level as they are legally entitled to apply for;

- make sure that the right checks have been carried out and see what, if any, information was disclosed about the applicant;
- check the person's identity;
- check the name on the DBS Certificate matches this identity;
- note the DBS Certificate reference number, the person's name and date of birth; and
- comply with the DBS Code of Practice; which includes having a policy on the recruitment of ex-offenders (a sample is available from the DBS website at [www.gov.uk/dbs](http://www.gov.uk/dbs)), and make this available to the person.

### **Repeal of registration and continuous monitoring**

5.31 The original plan – in the Vetting and Barring Scheme – was that anyone who wanted to work with vulnerable groups including children would need to register with the scheme and to be continuously monitored for any new criminal record information. This never came into force and the Protection of Freedoms Act repeals it. Registration and monitoring will not be introduced.

### **Minimum age for Disclosure checks**

5.32 Someone who is aged under 16 will no longer be able to apply for a DBS check.

### **New definition of 'Regulated Activity'**

5.33 The new DBS now only covers those who may have regular or close contact with children and vulnerable adults, defined as 'Regulated Activity' in legislation. Importantly for schools and FE colleges, the definition and scope of Regulated Activity with children has changed. Being clear about the definition of Regulated Activity matters because:

- Roles that fall within the new definition of Regulated Activity will require an enhanced DBS check and the appropriate barred list check (for children, adults or both);
- An organisation which knowingly allows a barred person to work in regulated activity will be breaking the law; and
- If you dismiss or remove someone from regulated activity (or you would have done had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children, you are legally required to forward information about that person to the DBS (known as the 'duty to refer'). It is a criminal offence not to do so. If you believe that the person has committed a criminal offence, you are also strongly advised to pass the information to the police. More information on the referrals process is contained in Chapter 6.

5.34 Regulated Activity is defined as unsupervised activity in a limited range of establishments with the opportunity for contact with children – these are

defined as 'Specified Places' in legislation, including schools, children's homes, childcare premises and pre-school establishments.

5.35 Under the new disclosure and barring arrangements the scope of Regulated Activity includes unsupervised activities including:

- Teaching
- Training
- Instructing
- Caring for or supervising children
- Providing advice/guidance on well-being
- Driving a vehicle only for children.

5.36 In addition, in order to be regarded as Regulated Activity such unsupervised activity performed at such a specified place must be done regularly. 'Regularly' means carried out by the same person frequently (once a week or more often), or on four or more days in a 30 day period (or in some cases, overnight)

5.37 Regulated Activity still excludes family arrangements and personal, non-commercial arrangements.

5.38 Activities that are no longer regarded as Regulated Activity under the new DBS arrangements include:

- Activities performed by volunteers that are supervised at a reasonable day to day level, and
- Occasional or temporary services such as maintenance or repairs.

5.39 For those individuals who do not work in Regulated Activity but nevertheless work, paid or unpaid, with children, their employers can, but will not be required to, obtain criminal records checks - but it will be unlawful to check if they are on a barred list.

### **Repeal of 'Controlled Activity'**

5.40 Under the new DBS arrangements, the 'Controlled Activity' category no longer exists. This category covered people who might have less contact with children than people in Regulated Activity, for example, some people who deal with records, and members of Board of Governors. Previously, employers could check whether people working in Controlled Activity were on barred lists, but can no longer do so (although depending on the role they may still be eligible for a DBS check). Consequently, from September 2012 a school or FE college is no longer able to check if members of Board of Governors are on a barred list, but can still obtain an Enhanced Disclosure Check. For more information, see section on volunteers later in Chapter 5.

### **Repeal of 'Additional Information'**

5.41 'Additional Information', often called 'non-conviction' information or 'brown envelope' material, is sensitive information held on local police records but which does not form part of a person's criminal record. Under the

previous system, the [Police Act 1997](#) enabled police forces to provide 'Additional Information' to potential employers only, without that information being disclosed to the applicant. This applied, for example, where disclosure to the applicant would be against the interests of preventing or detecting crime, perhaps because the applicant is the subject of an ongoing police investigation.

5.42 The [Protection of Freedoms Act 2012](#) removed this provision from the Police Act, as a matter of transparency and principle. It was disproportionate in terms of civil liberties and it did not allow the applicant to have sight of information about them which is being passed to a third party. The procedure was not used consistently across all police forces and was only used in a very small numbers of cases (around 200 per year).

5.43 This improves the transparency and openness of the disclosure process, but does not affect public protection. The Police will still be able to share information as they do on other issues, using their common law powers. These are used to prevent crime and protect the public, and any relevant information can be passed to a potential employer in cases where the Police consider that to be justified and proportionate.

### **More rigorous relevancy test**

5.44 The decision about what information is included on Enhanced Disclosure Certificates continues to be made by the police service, as it has significant experience in assessing the relevance and reliability of local information. The section of the certificate headed 'Other relevant information Disclosed at the Chief Police Officer(s) discretion' may contain information 'Approved' for disclosure. This is provided by the police from their local records and may relate to the applicant or, in certain circumstances, to a third party; it may also consist of information which is background to a conviction recorded on the Police National Computer.

5.45 Previously, the criteria under which a Chief Police Officer released information on Enhanced Disclosure Certificates was that they considered that it "might be relevant" to the position applied for by the applicant.

5.46 Under the [Protection of Freedoms Act 2012](#), the police must now apply a more rigorous test before deciding whether to disclose information. It has been tightened to information which the Chief Officer "reasonably believes to be relevant" to the position applied for. This makes the threshold for disclosing information more exacting and, therefore, more proportionate.

5.47 Changes to the police relevancy test are set out in new [Statutory Disclosure Guidance](#), which enables a more consistent approach to be taken across all forces. In deciding what, if any, information should be provided for inclusion in an Enhanced Disclosure Certificate, chief officers should apply the following principles:

- There should be no presumption either in favour of or against providing a specific item or category of information;



- Information must only be provided if the chief officer reasonably believes it to be relevant for the prescribed purpose for which the certificate is being sought. Information should be viewed as sufficiently serious, sufficiently current and sufficiently credible;
- Information should only be provided if, in the chief officer's opinion, it ought to be included in the certificate;
- The chief officer should consider whether the applicant should be afforded the opportunity to make representations;
- There should be a sufficient and clear audit trail to record the decision making process and support quality control;
- Decisions should be made in a timely manner;
- Information for inclusion should be provided in a meaningful and consistent manner, with the reasons for disclosure clearly set out; and
- Any delegation of the chief officer's responsibilities should be appropriate and fully documented.

### **Opportunity to invite representations**

5.48 When the Chief Officer of a police force is considering releasing information, there may be certain circumstances when they invite the applicant to make representations about some or all of that information before their deliberations are complete. Such representations will usually only be invited if:

- the information may be regarded as potentially false, unreliable or out of date;
- the outcome of the case is not known;
- the applicant is unaware of information held by the police and has never had the opportunity to challenge.

### **New right of review – Independent Monitor**

5.49 Another important change under the [Protection of Freedoms Act 2012](#) is to the role of the Independent Monitor. If the applicant thinks that any of the information included on an Enhanced Disclosure Certificate should not be, they will now be able to ask the Independent Monitor to review disputed information relating to anything other than the accuracy of the disclosure.

5.50 This new Review Process has been incorporated into the existing Enhanced certificate dispute process, and the dispute will initially be referred to the Chief Police Officer(s) to reconsider the Approved disclosure text. If they decide to remove or amend the information as requested, a new certificate will be issued.

5.51 However, if the Chief Police Officer decides not to remove or amend the information in line with the customer's request, the case will be referred to the Independent Monitor. If the Independent Monitor decides to uphold the dispute, they will direct that a revised certificate be issued.

5.52 In spring 2013, the introduction of the single certificate to applicants only further enhances the ability for an applicant to dispute any information on a certificate they do not believe is accurate, relevant and ought to be disclosed before they share it with others to make a decision on their suitability.

## Who requires a DBS check?

5.53 Only certain types of employers are entitled by law to ask someone to apply for a criminal record check through the Disclosure and Barring Service (DBS). This is known as asking an 'exempted question' - a valid request for a person to reveal their full criminal history, including spent convictions - which when answering, the applicant would have a legal obligation to reveal spent convictions.

5.54 The Rehabilitation of Offenders Act 1974 enables criminal convictions to be ignored after a rehabilitation period. However, certain employments are exempt from the Act so that individuals are now allowed to withhold details of any previous convictions in relation to their employment or proposed employment. Any work involving regular contact with children in a further education institution or educational setting is exempted, as detailed below:

- Schedule 1 Part II of the in the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975](#) states that the following employments and specific occupations are listed as 'exemptions':
  - Any employment as a teacher in a school or establishment for further education and any other employment which is carried out wholly or partly within the precincts of a school or establishment for further education, being employment which is of such a kind as to enable the holder to have access to persons under the age of 18 in attendance at the school or establishment for further education in the course of his normal duties.
  - Proprietors of independent schools.
- [Section 36 of the Criminal Justice and Court Services Act 2000](#) states that the following positions are also exempted:
  - any work in a school or a sixth form college, on day care premises, or in a children's home or hospital;
  - any position in which the normal duties include caring for, training, supervising or being in sole charge of children under the age of 18;
  - any position involving unsupervised contact with a child under arrangements made by the child's parents or guardian, the child's school or a registered day care provider; and
  - a position as a governor of a sixth form college.

5.55 Therefore, anyone applying for one of the above positions is exempt from the provisions of the Rehabilitation of Offenders Act 1974, and must give written details of all criminal convictions, including those that would normally be regarded as 'spent.'

5.56 If a role is not listed as an 'exception' under the Rehabilitation of Offenders Act 1974, a person with a criminal record is not legally required to disclose any spent convictions. If an applicant has a conviction that has become spent, the employer must treat the applicant as if the conviction has not happened. A refusal to employ a rehabilitated person on the grounds of a spent conviction is unlawful under the Rehabilitation of Offenders Act 1974.

5.57 There are three different types of criminal record check offered by the DBS, standard, enhanced and enhanced with a barred list. The employer or organisation asking someone to apply for a criminal record check should provide the applicant with more information about the level of check required.

- **A standard check** is available for certain specified occupations, licences and entry into certain specified professions. These are listed in the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order 1975](#). It contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC).
- **An enhanced check** is available for posts that are listed in section 115 of the Police Act 1997 – those carrying out certain activities or working in regulated activity with children or adults; applicants for gaming and lottery licences; and judicial appointments. These are listed in [Part V of the Police Act 1997](#). It contains the same PNC information as the standard check but also includes a check of police records held locally.
- **An enhanced check with a barred list check** is only available for those individuals who are in regulated activity and a small number of positions listed in Police Act regulations, for example, prospective adoptive parents. It contains the same PNC information and check of police records held locally as an enhanced check but in addition will check against the children's and/or adults barring lists. The DBS has produced a [fact sheet](#) which explains which offences will, or may, subject to representations, lead to a person being included in an DBS barred list.

5.58 The DBS also has a confidential checking process for transgender applicants who don't want to reveal details of their previous identity to a potential employer. For information, email: [sensitive@dbsgsi.gov.uk](mailto:sensitive@dbsgsi.gov.uk).

### **Paid teaching and non-teaching staff**

5.59 All new paid teaching and non-teaching staff appointed to paid posts in schools or FE institutions that involve caring for, supervising or being in sole charge of children must undergo a pre-employment vetting check before taking up their post.

5.60 Under the new DBS arrangements, teachers and non-teaching staff are regarded as undertaking unsupervised Regulated Activity in a Specified Place such as a school. Consequently, the type of staff listed below continue to require an Enhanced Disclosure Certificate and checking whether someone

is included on the DBS 'Barred Lists' of individuals who are unsuitable for working with children:

- full-and part-time teachers; and
- non-teaching staff such as:-
  - school class-room assistants
  - school technical/lab assistants
  - school librarians
  - school office staff
  - school caretakers
  - school catering staff
  - school cleaning staff
  - school grounds staff
  - school nurses
  - school bursars
  - modern language assistants

### **Agency staff**

5.61 Under the [Conduct of Employment Agencies and Employment Businesses Regulations 2003](#), employment agencies and employment businesses are not allowed to introduce or supply a work seeker to a hirer unless they have made checks to ensure that both work seeker and hirer are aware of any legal or professional body requirements, which either of them must satisfy to enable the work seeker to work for the hirer.

5.62 Where supply staff are employed directly by the school or FE institution, the school or FE institution must ensure that all relevant DBS checks have been completed as for other employed staff.

5.63 Where supply teachers are employed by an agency, schools must require (through the contract or other arrangements which it makes with the supply agency) the supply agency to provide written notification to confirm:

- that relevant Disclosures have been requested from that individual;
- whether or not the Disclosure has been received;
- and if received, whether it included any disclosed information.

5.64 If the Disclosure Certificate has not yet been received by the agency, the school must require the agency to notify it of the content as soon as the Disclosure is received.

5.65 Schools may ask supply teachers to produce their copy of the Enhanced Disclosure to provide assurance that the check has been made, and may ask agencies to confirm the validity of the document.

5.66 Schools and FE colleges must record whether those checks have been carried out on the Single Central Record. More information on this is contained later in Chapter 5.

## **Emergency cover for non-teaching staff**

5.67 In addition, situations will arise unexpectedly, where non-teaching staff are required to cover for permanent staff in the case of an emergency. It may be necessary that, in these circumstances, temporary arrangements have to be quickly put in place for such staff before a vetting check can be carried out.

5.68 In situations where it is not possible to obtain a vetting check in advance, head teachers must carry out a risk assessment and in such circumstances all necessary steps should be taken to ensure the safeguarding of children and young people.

## **Applicants for teacher training courses**

5.69 The following applicants for initial teacher training courses are likely to require an Enhanced Disclosure Certificate:

- students who will undertake teaching practice in schools;
- students who will be responsible for caring for, training, supervising or being in sole charge of children as part of their course;
- students who will have unsupervised access to children as part of the course.

5.70 Such students should be asked to obtain a Disclosure after the institution has decided to offer a place and before the start of the course. Institutions may wish to offer a place conditional on a satisfactory check.

5.71 It is the responsibility of the institution to decide whether to accept a candidate onto a course in light of any criminal record the person may have. Clearly, however, institutions will need to take account of the views of LEAs and Head teachers in whose schools they normally place student teachers, and the kind of offences that they would regard as unacceptable.

5.72 Institutions must not disclose information gained from a Disclosure to a third party such as a school or an LEA without the person's written consent. Under the terms of the Police Act 1997, unauthorised disclosure of such information is an offence. Teaching training providers must ensure they adhere to the [DBS code of practice](#).

5.73 Teacher training providers should ensure that they have had sight of disclosure certificates prior to a trainee commencing school and FE college based elements of their training.

5.74 Head teachers and principals will have discretion to allow an individual to begin school and FE college based training pending receipt of the Disclosure, provided that the trainee is appropriately supervised (in line with [Statutory Guidance on Supervision](#).)

## Extended schools

5.75 Many primary and secondary schools already offer breakfast and after school clubs and other services. Pre and after school club provision is developing further as part of the extended schools agenda. Including a wide range of services such as; childcare, study support, a range of family learning and parental support, swift and easy referral to a range of specialised services for pupils and community use of the school's facilities such as sports and ICT. These services will be offered either on the school site, on other school sites, or through other providers.

5.76 Requirements placed upon schools relating to existing staff and volunteers at the school will extend to incorporate those involved in the provision of extended services. So where the governing body provides services or activities directly under the supervision or management of school staff, the school's arrangements for appointments, recruitment and vetting checks and record keeping will apply. Where schools are planning to deliver childcare directly, they should contact [Estyn](#) for information about the registration process as childcare provision for children aged under eight must currently be registered separately by the Care Standards Inspectorate for Wales (CSSIW).

5.77 Where a third party is responsible for running the services there should be clear lines of accountability and written agreements setting out responsibility for carrying out the recruitment and vetting checks on staff and volunteers. This also applies in the case of Sure Start Children's Centres which will increasingly be situated on school sites. Local authorities can advise schools on registered providers with whom they might link to provide services.

5.78 Schools that choose to provide their childcare through private or voluntary sector providers should use CSSIW registered providers for provision for children aged under eight years. Registered childcare providers should apply to the DBS for Enhanced Disclosures. It is the responsibility of the childcare provider to make sure that any new members of staff, or new people who live or work on the premises are suitable to care for or have regular contact with children. The registered childcare provider must ensure that their staff and volunteers are not on a barred list and have applied to the DBS for an Enhanced Disclosure.

5.79 Written agreements should be in place with any third party providers or groups using the site. These should set out the respective responsibilities of the governing body and those of the provider or group. Local authorities are well placed to advise on the practical implementation of extended services, and to share written agreements that have worked well elsewhere. These should set out responsibility for areas such as health and safety, recruitment and vetting checks. Where services are being developed, the schools' insurance provider should be consulted to ensure that the provision is covered adequately. All staff and providers working on or managing the site out of hours should have training on issues such as emergency evacuation

procedures. Staff and their professional associations must know who they are accountable to and for what and must be consulted when services are developing.

5.80 Where the governing body provides services or activities directly under the supervision or management of school staff, the school's arrangements for staff appointments will apply. Governors need to be aware that it is their responsibility to ensure that proper records are kept.

### **Non-UK nationals and staff who have lived outside the UK**

5.81 UK nationals who have lived outside of the UK for a period of time must undergo the same checks as for all other staff in schools and FE institutions. However, DBS Disclosures will not generally show offences committed by individuals whilst living abroad (except in the case of service personnel and their families, and a small number of other cases where overseas criminal records are held on the Police National Computer and would be revealed as part of a criminal record check.) Therefore a criminal record check for staff who have lived overseas for a period of time, may not provide a complete picture of an individual's criminal record.

5.82 For people who have never previously lived in the UK, no purpose will be served by seeking a Disclosure through the DBS on their arrival in this country as the person will not have a criminal record in this country.

5.83 If the applicant is not a UK national, or has lived outside the UK for a period of time, employers can ask them to obtain a 'Certificate of Good Conduct' or an equivalent criminal records check from the relevant home police force, foreign embassy or High Commission of the country in question, as well as any other references from their country of origin.

5.84 In some cases, it may also be possible for employers to obtain this check through the relevant embassy in the UK - but the applicant must give their permission. A list of contact details for London based embassies can be found at: [www.gov.uk/government/publications/foreign-embassies-in-the-uk](http://www.gov.uk/government/publications/foreign-embassies-in-the-uk).

5.85 Certificates of good conduct and the level of information they contain varies from country to country: some are complete extracts from the criminal record; others are partial. Details of how to apply for certificates of Good Conduct and/or criminal record certificates and these can be found at [www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants](http://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants). Either the employer or the applicant should obtain a certified translation of the certificate of good conduct. Embassies may be able to help with this.

5.86 Where an applicant is from or has lived in a country where criminal record checks cannot be made for child protection purposes, or is a refugee with leave to remain in the UK, and has no means of obtaining relevant information, employers must take extra care in taking up references and carrying out other background checks. For example, additional references

should be sought, and references followed up by phone as well as letter.

5.87 These checks must be completed prior to the individual starting work.

## **Volunteers**

5.88 A volunteer is defined as a person who performs an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit someone (individuals or groups) other than or in addition to close relatives.

5.89 Under the new DBS arrangements the law regarding the vetting of volunteers in schools and FE institutions has changed. There will now be two types of volunteers working in schools and FE institutions:

- Those who work unsupervised; and
- Those who work under supervision

5.90 Whether a volunteer is supervised will determine if he/she is working in Regulated Activity or not, which will then decide if an Enhanced Disclosure Certificate is required. Changes to the definition of 'Regulated Activity' under the Protection of Freedoms Act means that since September 2012, volunteers working in schools or FE institution are no longer viewed as in Regulated Activity providing the school or FE institution can ensure reasonable supervision on a regular basis. It will be a matter for schools/ organisations to determine whether the level of supervision meets the standards set out in [Statutory Guidance on Supervision](#).

5.91 This section provides guidance on the new vetting arrangements for different types of volunteers, in line with the new definition of 'Regulated Activity' and the repeal of 'Controlled Activity' under the Protection of Freedoms Act 2012.

### **Volunteers who work unsupervised**

5.92 Volunteers who are not supervised are still regarded as working in Regulated Activity and therefore still require an Enhanced Disclosure Certificate and a check of the barred lists.

5.93 In recognition of the value of volunteers to many organisations who have safeguarding at heart, the DBS processes volunteer disclosure applications free-of-charge, has made the Update Service free for volunteers too.

5.94 The DBS relies on employers to make a careful decision when submitting the application form for a volunteer that they meet the DBS definition that a volunteer is 'A person engaged in an activity which involves spending time, unpaid (except for travel and other approved out-of-pocket expenses), doing something which aims to benefit some third party other than or in addition to a close relative.' To qualify for a free-of-charge volunteer check, employers must be certain that the applicant does not directly benefit



from the position the DBS application is being submitted for. The applicant must not:

- receive any payment (except for travel and other approved out-of-pocket expenses);
- be on a placement;
- be on a course that requires them to do this job role; and/or
- be in a trainee position that will lead to a full-time role/qualification.

### Volunteers who work under supervision

5.95 If a volunteer is supervised then under the new DBS arrangements they are not regarded as working in Regulated Activity and therefore it is no longer mandatory for a school or FE institution to obtain an Enhanced Disclosure Certificate. However, a school is still entitled to obtain an EDC if it so wishes; for example, if, in their judgement, local staff are concerned that an adequate level of supervision cannot be consistently maintained, then the school is entitled to apply for an EDC, without a barred list check.

5.96 It is now unlawful for a school or FE institution to check if a supervised volunteer is on a barred list, as they are not classed as in Regulated Activity.

### Determining 'Adequate Supervision'

5.97 Welsh Government cannot adjudicate or determine as to what is regarded as adequate supervision as the precise nature and level of supervision will vary from case to case depending on a range of situations and circumstances. The statutory duty means that it is for local authority, school or FE institution staff to decide if the level of supervision they can provide is sufficient, in their judgement, to provide reasonable assurance for the protection of children in their care.

5.98 Organisations must ensure that the supervision meets the statutory standards set out in [Statutory Guidance on Supervision](#) issued by the Secretary of State for Education in relation to regulated activity with children. A school/organisation must have regard to this guidance.

5.99 In order for supervised work to not be classed as Regulated Activity (when it would be, if not so supervised), there are three main legal duties:

1. **There must be supervision by a person who is in Regulated Activity themselves;**
2. **The supervision must be regular and day to day:** The duty that supervision must take place "on a regular basis" means that supervision must not, for example, be concentrated during the first few weeks of an activity and then tail off thereafter, becoming the exception not the rule. It must take place on an ongoing basis, whether the volunteer has just started or has been doing the activity for some time; and

3. **The supervision must be “reasonable in all the circumstances to ensure the protection of children”:** The level of supervision may differ, depending on all the circumstances of a case. Schools and FE institutions should consider the following factors in deciding the specific level of supervision the organisation will require in an individual case:
- ages of the children, including whether their ages differ widely;
  - number of children that the individual is working with;
  - whether or not other workers are helping to look after the children;
  - the nature of the individual’s work (or, in a specified place such as a school, the individual’s opportunity for contact with children);
  - how vulnerable the children are (the more they are, the more an organisation might opt for workers to be in Regulated Activity); and
  - how many workers would be supervised by each supervising worker.

### **Visitors to schools**

5.100 People who may visit schools to attend meetings, to deliver goods or carry out maintenance tasks do not routinely need to be vetted before being allowed on to school premises. Examples of people who do not need to apply for a Disclosure include:

- visitors who have business with the head teacher, principal or other staff or who have brief contact with children with a member of staff present;
- visitors or contractors who come on site only to carry out emergency repairs or service equipment and who would not be expected to be left unsupervised on school or FE college premises;
- volunteers or parents who only accompany staff and children on one off outings or trips that do not involve overnight stays, or who only help at specific one off events e.g. a sports day, school fête, college open day;
- people who are on site before or after school or college hours and when children are not present, e.g. local groups who hire premises for community or leisure activities, contract cleaners who only come in after children have gone home, or before they arrive.

5.101 However, such visitors should be managed by school staff. They should be:

- signed in and out of the school by school staff;
- if appropriate, be given restricted access to only specific areas of the school;
- where possible, they should be escorted around the school premises by a member of staff;
- if left unattended, they should be clearly identified with visitor/contractor passes; their access to pupils restricted to the purpose of their visit; and
- if carrying out building, maintenance or repair tasks their work area should be cordoned off from pupils for health and safety reasons.

## **Members of boards of governors**

5.102 Under the new DBS arrangements, the 'Controlled Activity' category no longer exists. This category covered people who might have less contact with children than people in Regulated Activity, including members of Board of Governors.

5.103 Consequently, school governors are no longer required to have an Enhanced Disclosure Certificate as a condition of their appointment. It also means that it is unlawful for a school to check if members of governors are on a barred list.

5.104 However, schools still have an option to request an EDC check without a barred list check, and any governor giving cause for concern should also be asked to obtain an Enhanced Disclosure. All others should be asked to sign a declaration confirming their suitability to fulfil the role.

5.105 Governors in positions that include regular work in the presence of children, or who care for, train, supervise or are in sole charge of children should be asked to obtain an Enhanced Disclosure (in line with other volunteers.)

## **When and how often must someone apply for a Disclosure?**

5.106 Following the merger of the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority to form the DBS, schools, FE colleges or local authorities are not required to ask existing staff, in post, who were not previously eligible for CRB checks to apply for a new DBS Disclosure, unless:

- there are concerns about the person's suitability to work with children; or
- an individual moves to work that involves greater contact with children and their previous work did not require an Enhanced Disclosure.

5.107 New Disclosures are required for staff who:

- take up a new appointment with a different employer;
- are reappointed or re-elected as a governor;
- have a break in service of three months or more;
- move to a post with significantly greater responsibility for children and young people
- the employer has grounds for concern about regarding their suitability to work with children.

5.108 Depending on an individual's circumstances and employment history a new vetting check may not be required for paid teaching and non-teaching staff moving to a new school, local authority or FE college. Employers may rely on checks made during any previous employment provided that:

- their previous employment history within the education sector can be verified;
- their break in employment in the education sector is not longer than three months; and

- it can be confirmed that a Disclosure was in place before they finished working at their previous school.

5.109 Ultimately it is for the employer to determine whether to accept a previously-issued CRB/ DBS check and to decide if it is recent enough or suitable for the current purpose. There is no official expiry date for a criminal record check issued by the DBS. DBS certificates only contain information from a DBS check on a certain date and for a particular purpose and therefore the following should be considered before making a decision:

- The applicant's criminal record or other relevant information may have changed since its issue.
- The decision made by a Chief Police Officer to disclose information on a CRB/DBS certificate was made based on the position for which the criminal record check was originally applied for. You cannot assume that no other intelligence would be disclosed for a different position.
- The information revealed was based on the identity of the applicant, which was validated by another registered body, at the time that the original check was requested. Therefore, you should ensure that the identity details on the certificate match those of the applicant.

5.110 CRB-branded certificates should be treated the same as DBS-branded certificates.

### **Starting work pending a Disclosure**

5.111 Ideally, where a Disclosure is required, it should be obtained before an individual begins work. It must in any case be obtained as soon as practicable after the individual's appointment and the request for a Disclosure should be submitted in advance of the individual starting work. Head teachers, principals and local authorities have discretion to allow an individual to begin work within their schools or colleges pending receipt of the Disclosure but should ensure that the individual is appropriately supervised. Organisations must ensure that the supervision meets the statutory standards set out in [Statutory Guidance on Supervision](#) issued by the Secretary of State for Education in relation to regulated activity with children.

5.112 Appropriate supervision for individuals who start work prior to the result of a Disclosure being known needs to reflect what is known about the person concerned, their experience, the nature of their duties and the level of responsibility they will carry. For those with limited experience and where references have provided limited information, the level of supervision required may be high. For those with more experience and where the references are detailed and provide strong evidence of good conduct in previous relevant work a lower level of supervision may be appropriate. For all staff without completed Disclosures it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision spelt out. The arrangements should be reviewed regularly, at least every two weeks until the Disclosure is received.

5.113 Before taking on a member of supply staff from an agency, a school or FE college must obtain a written notification from the agency that indicates that relevant Disclosures have been requested for that individual, outlines whether or not the Disclosure has been received, and if received, whether it included any disclosed information. Where there is disclosed information, the school or FE college must obtain a copy of the Disclosure from the agency. If the CRB Disclosure has not been received yet by the agency, the school must require the agency to notify it of the content as soon as it is received.

5.114 Where a Disclosure indicates cause for concern for agency or directly employed staff, the member of staff must immediately be withdrawn from the school or FE college pending further enquiries.

### **How to decide whether a person's criminal record is relevant**

5.115 An applicant's suitability should be judged in the light of the results of all the relevant pre-appointment checks carried out on him or her. The fact that the person has a criminal record does not automatically make him or her unsuitable for work with children or young people. You should not discount someone from a job just because information has been disclosed on a DBS certificate or a previously issued CRB check.

5.116 Employers must make a judgement about an individual's suitability to work with children, taking into account only those offences which may be relevant to the particular job or situation in question.

5.117 The Welsh Government cannot advise employers whether or not they should employ a particular person. In deciding the relevance of convictions a number of points should be considered:

- **The nature of the offence:** In general, convictions for sexual, violent or drug offences will be particularly strong contra-indications for work with children and young people.
- **The nature of the appointment:** Often the nature of the appointment will help to assess the relevance of the conviction. For example, serious sexual, violent, drug or drink offences would give rise to particular concern where a position was one of providing care. Driving or drink offences would be relevant in situations involving transport of children and young people.
- **The age of the offence:** Offences which took place many years in the past may often have less relevance than recent offences. However, convictions for serious violent or sexual offences or serious offences involving substance abuse are more likely to give cause for continuing concern than, for instance, an isolated case of dishonesty committed when the person was young. The potential for rehabilitation must be weighed against the need to protect children and young people.
- **The frequency of the offence:** A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction.

5.118 If a Disclosure reveals that the Secretary of State has placed restrictions on a person's employment, the person must not in any circumstances be placed in a post which would infringe those restrictions, and the registered person should tell the head teacher or college principal about the terms of the restrictions which the Secretary of State has placed on the person's employment.

5.119 Anyone who is barred from work in the education service on grounds that he or she is not a fit and proper person to be employed as a teacher or worker with children and young persons, will also be disqualified from all work with children in a regulated position as set out in [section 36 of the Criminal Justice and Court Services Act 2000](#).

5.120 It is an offence for a disqualified person to apply for, offer to do, accept or do any work in any of the regulated positions set out in the Act. It is also an offence for an employer knowingly to offer work in a regulated position for an individual who is disqualified from working with children, or to fail to remove such an individual from such work. The DBS will inform the police if a disqualified person attempts to obtain work with children and young people.

### **Recruitment of ex-offenders**

5.121 If you carry out criminal records checks, you must have a policy on employing ex-offenders. You must show it to any applicant who asks for it. The DBS has developed a [specimen policy on the recruitment of ex-offenders](#) to help guide organisations.

### **Fraudulent applications**

5.122 Serious, deliberate fraud or deception in connection with an application for employment may amount to a criminal offence (Obtaining Pecuniary Advantage by Deception). In such cases the employer should in addition to any planned disciplinary action, consider reporting the matter to the police.

### **How to store and handle DBS certificate information**

5.123 Anybody who receives a standard or enhanced DBS certificate must comply with the [Code of Practice](#) for registered persons and other recipients of DBS check information, published under section 122 (2) of the [Police Act 1997](#). The Code requires that:

- information released must be used fairly and considered only for the purpose for which it was obtained;
- information released is handled and stored appropriately;
- all registered bodies must have a written policy on the correct handling and safekeeping of DBS certificate information. The DBS has produced a [sample policy statement on the handling and storage of DBS certificate information](#) which can be used or adapted for this purpose;

- information is kept for only as long as necessary and is destroyed after a suitable period has passed. In general, this should be no later than six months after the date on which recruitment or other relevant decisions have been taken or after the date on which any dispute has been resolved. This period should only be exceeded in very exceptional circumstances which justify retention for a longer period. Before the Disclosure is destroyed, records need to be kept detailing the date the Disclosure was obtained, who obtained it (i.e. school, FE college, local authority, supply agency), the level of the Disclosure, and the unique reference number. The head teacher or principal or college or local authority will also want to consider keeping a note of what other information was used to assess suitability.

5.124 Organisations must satisfy the DBS that they are complying with the Code of Practice. This means cooperating with requests from the DBS to undertake assurance checks, as well as reporting any suspected malpractice in relation to the Code or misuse of DBS certificates.

### **Single central record of Disclosure and barring checks**

5.125 In addition to the various staff records which are kept as part of normal business, schools and FE colleges must also keep and maintain a single central record of recruitment and vetting checks.

5.126 Schools and FE colleges must have a record of the following people:

- all staff who are employed to work at the school and those staff in FE colleges providing education; and
- all staff who are employed as supply staff to the school or as supply staff providing education to the FE college, whether employed directly by the school, FE college or local authority or through an agency.

5.127 The central record must indicate whether or not the following have been completed:

- Identity checks;
- Qualification checks for any qualifications legally required for the job
- For those applying for teaching posts, registration check with the GTCW where appropriate;
- Checks of right to work in the United Kingdom;
- DBS Enhanced Disclosure (in FE colleges only for those staff providing education and who regularly care for, train, supervise or have sole charge of persons aged under 18); and
- Further overseas records checks where appropriate (see earlier section in Chapter 5 on staff who have lived outside the United Kingdom).

5.128 The record must also show the date on which each check was completed or the relevant certificate obtained, and should show who carried out the check.

## **Sharing information from a Disclosure**

5.129 Information disclosed as part of a DBS Disclosure must be treated as confidential. The Police Act 1997 makes it a criminal offence for any information revealed in a Standard or Enhanced Disclosure to be passing to anyone who does not need it in the course of their duties.

5.130 However, Regulations under the Police Act provide for information to be passed on in various circumstances. For example:

- a Disclosure may be passed from agency to agency, between local authorities and agencies, and between schools/ FE colleges and agencies if the subject gives written consent;
- the person who countersigned an application for Disclosure can share the information with another member of the registered body if the other person needs to know the information for the purpose of his or her duties;
- if the person countersigned the application on behalf of another body (eg. an LEA arranged a check for a school) the countersignatory can pass the information to that body;
- where a body receives information from a registered person as above, the information can be shared with members of that body who need to know it for the purposes of their duties;
- agencies can pass Disclosure information to schools or FE colleges where the subject's suitability for work at the school or FE college is under consideration;
- information can be passed to a government department.

5.131 If anyone in possession of Disclosure information is in any doubt about whether he or she can pass on the information to someone else, he or she should seek advice from the lead countersignatory of the registered body which authorised the check.



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

### Introduction

6.1 It is vital that the measures described in Chapter 4 about safer recruitment practice are applied thoroughly whenever someone is recruited to work with children, but that must not be the end of the matter. Schools and FE colleges are safe environments for the great majority of children, and the vast majority of people who work with children have their safety and welfare at heart. But we must not be complacent. We know that some people seek access to children in order to abuse, and that abused children very often do not disclose the abuse at the time. We also know that some of the allegations of abuse made against staff are substantiated, and we continue to see a number of cases year on year in which teachers and other staff are convicted of criminal offences involving the abuse of children.

6.2 It is crucial therefore that everyone who works in a school or any other setting providing for children is aware of these issues, and the need to adopt ways of working and appropriate practice to help reduce allegations. It is equally important that everyone is able to raise concerns about what seems to be poor or unsafe practice by colleagues, and that those concerns, and concerns expressed by children, parents or others are listened to and taken seriously.

6.3 It will often be hard to give credence to concerns particularly if they are about a long serving and trusted colleague. Unfortunately those concerns will sometimes be true and it is important that they are taken seriously and not simply dismissed. Where concerns have not been taken seriously in the past a person has been able to continue abusing children, sometimes for many years. It is vital therefore that all concerns are taken seriously and that, where appropriate, action is taken. This chapter sets out guidance on dealing with allegations against education staff.

6.4 It is essential that any allegation of abuse made against a teacher or other member of staff or volunteer in an education setting is dealt with fairly, quickly, and consistently, in a way that provides effective protection for the child, and at the same time supports the person who is the subject of the allegation.

6.5 Employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended.

6.6 The framework for managing cases of allegations of abuse against people who work with children is set out in [Welsh Government Circular 12/2007: Safeguarding Children: Working Together Under the Children Act 2004](#). This chapter deals specifically with allegations of abuse against teachers and other staff working in schools and Further Education institutions.

6.7 All schools and FE colleges should have procedures for dealing with allegations, and all staff and volunteers should understand what to do if they receive an allegation against another member of staff, or if they themselves have concerns about the behaviour of another member of staff. The procedure should make it clear that all allegations should be reported immediately, normally to the head teacher or principal, and identify the person, often the chair of governors, to whom reports should be made in the their absence, or in cases where the head teacher or principal is the subject of the allegation or concern. Procedures should also include contact details for the Local Authority Designated Officer for Child Protection (LADO) responsible for providing advice and monitoring cases.

## **Abuse of trust**

6.8 All education staff need to know that inappropriate behaviour with or towards children is unacceptable. In particular, under [The Sexual Offences Act 2003](#) it is an offence for a person over 18 (e.g. teacher, youth worker) to have a sexual relationship with a child under 18 where that person is in a position of trust in respect of that child, even if the relationship is consensual. This applies where the child is in full-time education and the person works in the same establishment as the child, even if he/she does not teach the child.

6.9 In the education service, all relationships between staff and pupils are founded on trust. Broadly speaking, a relationship of trust can be described as one in which one party is in a position of power or influence over the other by virtue of their work or the nature of their activity. The individual in the position of trust may have the power to confer advancement or failure. The relationship may be distorted by fear or favour. It is vital for all those in such positions of trust to understand the power this gives them over those they care for and the responsibility they must exercise as a consequence. While such a relationship of trust exists, allowing a relationship to develop in a way that might lead to a sexual relationship is wrong. A sexual relationship itself will be intrinsically unequal within a relationship of trust and is therefore unacceptable. It is also inappropriate since the 'professional' relationship of trust would be altered.

6.10 [The Sexual Offences \(Amendment\) Act 2000](#) set out a series of occupations to which the abuse of position of trust laws apply. This includes anyone working in an educational institution.

6.11 The primary purpose of the abuse of trust provisions is to provide protection for young people aged 16 and 17, who are considered to be particularly vulnerable to exploitation by those who hold a position of trust or authority in their lives.

6.12 Subject to a number of limited definitions, it is a criminal offence for a person in a position of trust to engage in any sexual activity with a person aged under 18 with whom they have a relationship of trust, irrespective of the age of consent even if the basis for their relationship is consensual.

6.13 A relationship of trust exists where a member of staff or volunteer is in a position of power or influence over young people aged 16 or 17 by virtue of the work or nature of the activity being undertaken.

6.14 The principles apply irrespective of sexual orientation: neither homosexual nor heterosexual relationships are acceptable within a position of trust. They apply equally to all without regard to gender, race, religion, sexual orientation or disability. This is an area where it is very important to avoid any sexual or other stereotyping. In addition, it is important to recognise that women as well as men may abuse a position of trust.

6.15 All staff should ensure that their relationships with young people are appropriate to their age and gender and take care that their language or conduct does not give rise to comment or speculation. Attitudes, demeanour and language all require care and thought, particularly when members of staff are dealing with adolescent boys and girls.

6.16 [Caring for young people and the vulnerable? Guidance for preventing abuse of trust](#) published in association with the Home Office, Northern Ireland Office, the National Assembly for Wales, Department of Health, and Department for Education and Employment and sets out the main principles for developing a code of conduct for those working with children to protect against sexual activity within relationships of trust. The guidance itself has no statutory force but contains principles of good practice. It is intended to help organisations draw up their own codes of conduct on how to provide safeguards and prevent an abuse of trust involving some form of sexual activity.

## **Dealing with allegations of abuse against teachers and other staff**

6.17 This guidance is about dealing with allegations that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. It relates to all cases in which it is alleged that a teacher or member of staff (including volunteers) in a school or FE college that provides education for children under 18 years of age has:

- behaved in a way that has harmed, or may have harmed, a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.

### **Initial considerations**

6.18 The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may not meet the criteria set out above, in which case local arrangements should be followed to resolve cases without delay. Some rare allegations will be so serious they require immediate intervention by children's social services and/or the police.

6.19 The Local Authority Designated Officer for child protection (LADO) should be informed of all allegations that come to a school's attention and appear to meet the criteria set out above so they can consult children's social services and the police, as appropriate.

### **Receipt of an allegation**

6.20 Allegations should be brought immediately to the attention of the head teacher or principle, (or chair of governors if the allegation is against the head teacher), the chair of the management committee or proprietor of an independent school ('the case manager').

6.21 In the first instance, the case manager should immediately discuss the allegation with the LADO. The purpose of an initial discussion is for the LADO and the case manager to consider the nature, content and context of the allegation and agree a course of action. The initial enquiries should establish:

- that an allegation has been made;
- what is alleged to have occurred;
- when and where the episode(s) is/are alleged to have occurred;
- who was involved; and
- any other persons present.

6.22 The LADO may ask the case manager to provide or obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations and the member of staff's current contact with children.

6.23 There may be situations when the case manager will want to involve the police immediately, for example if the person is deemed to be an immediate risk to children. Where there is no such evidence, the case manager should discuss the allegations with the LADO in order to help determine whether police involvement is necessary.

6.24 The initial sharing of information and evaluation may lead to a decision that the allegation is demonstrably false and no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by both the case manager and the LADO, and agreement reached on what information should be put in writing to the individual and by whom. The case manager should then consider with the LADO what action should follow in respect of the individual and those who made the allegation.

6.25 The decision that no further action is to be taken should never be based on the employer's opinion about the character and/or personal circumstances of the individual employee and about the person making the allegation.

## **Suspension**

6.26 The possible risk of harm to children posed by an accused member of staff should be evaluated and managed in respect of the child(ren) involved in the allegations. In some it will require the case manager to consider suspending the member of staff until the case is resolved.

6.27 Employers must consider carefully whether the circumstances of a case warrant a member of staff being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved.

6.28 Suspension must not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step; if the case manager is concerned about the welfare of other children in the community or the member of staff's family, those concerns should be reported to the LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.

6.29 Suspension should be considered only in a case where there is cause to suspect a child or other children at the school is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. However, the member of staff should not be suspended automatically. The case manager must consider carefully whether the circumstances warrant suspension from contact with children at the school or FE college or until the allegation is resolved, and may wish to seek advice from their personal adviser and the LADO.

6.30 Where it has been deemed appropriate to suspend the member of staff, written confirmation should be dispatched within one working day, giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed at the point of their suspension who their named contact is within the organisation and be provided with their contact details.

6.31 Children's social services or the police cannot require the case manager to suspend a member of staff, although they should give appropriate weight to their advice. The power to suspend is vested in the headteacher or the governing body although this task is usually delegated to the chair of governors. However, where a strategy discussion concludes that there should be enquiries by the children's social services and or investigation by the police, the LADO should canvass police and social services views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school's consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

## **Informing the accused person**

6.32 The case manager should inform the accused person about the allegation as soon as possible after consulting the LADO. It is extremely important that the case manager provides them with as much information as possible at that time. However, where a strategy discussion is needed, or police or children's social services need to be involved, the case manager should not do that until those agencies have been consulted and have agreed what information can be disclosed to the person. If the individual employee is a member of a trade union they should be advised to contact that organisation.

## **Informing parents/carers**

6.33 Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However where a strategy discussion is required, or police or children's social services need to be involved the case manager should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution, including that a disciplinary process is being followed.

6.34 However, the deliberations of a disciplinary hearing and the information taken into account in reaching a decision is confidential and is not disclosable. Parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers in the Education Act 2011<sup>22</sup>. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

## **Referral to the police and social services**

6.35 If the allegation is not demonstrably false and there is cause to suspect a child is suffering or is likely to suffer significant harm, and/or a criminal offence against a child has been committed, a strategy discussion should be convened in accordance with [Safeguarding Children: Working Together Under the Children Act 2004](#) and the [All Wales Child Protection Procedures 2008](#).

6.36 If the allegation is about physical contact, the strategy discussion or initial evaluation with the police should take into account that teachers and other school and FE college staff are entitled to use reasonable force to control or restrain pupils in certain circumstances, including dealing with disruptive behaviour.

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<sup>22</sup> Section 13 of the Education Act 2011 inserted section 141F into the Education Act 2002

## **Considerations for governing bodies**

6.37 At this point the case manager should consider whether suspension of the member of staff is required. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved.

6.38 While the statutory authorities are considering the allegation, governing bodies of maintained schools should not take any action other than to review and confirm the membership of the staff disciplinary and dismissal and staff disciplinary and dismissal appeals committees. In addition at this stage the school governing body should also inform other relevant authorities such as the diocesan authority and any trustees as appropriate.

## **Strategy discussion and strategy meeting**

6.39 The strategy discussion will share all information received/gathered to date and decide on the next course of action and whether a strategy meeting should be held. The strategy meeting decides whether enquiries by the social services and/or police will proceed further and if so, plans the process and management of the enquiries. The statutory authorities may decide to refer the matter to the Crown Prosecution Services because of potential criminal behaviour. Alternatively the meeting may decide that further enquiries are not required and the employer should deal with the allegation in accordance with its own disciplinary procedures.

6.40 Where it is clear that an investigation by the police or children's social services is unnecessary, the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the case manager. In those circumstances, the options open to the school or FE college depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to summary dismissal via a disciplinary hearing or a decision not to use the person's services in the future if the allegation is made against a volunteer or agency service.

6.41 In some cases further enquiries will be needed to enable a decision about how to proceed. The process for maintained schools in these cases is that the LADO, the Head teacher and the Chair of the Governing body should discuss how, and by whom an independent investigation will be undertaken. Many local authorities already provide for an independent investigation of allegations, often as part of the personnel services that schools and FE colleges can buy in from the authority. It is important that local authorities ensure that schools and FE colleges have access to an affordable facility for independent investigation. For maintained schools the Welsh Government has established an independent investigation service to consider allegations of abuse against teachers and member of staff which are considered to constitute gross misconduct behaviour.

6.42 For many allegations the outcome is likely to be that criminal prosecution does not take place, and that the employer undertakes disciplinary proceedings. The avoidance of delay and duplication may be facilitated by a recommendation at the strategy meeting that the interviewing police officer and/or social worker seek consent from individuals being interviewed to share the information provided with the employer and or independent investigation service at the conclusion of the enquiries and/or court hearing.

### **Oversight and monitoring**

6.43 In accordance with Working Together Under the Children Act 2004 the local authority social services should have overall responsibility for:

- ensuring that the authority operates procedures for dealing with allegations in accordance with that guidance;
- resolving any inter-agency issues; and
- liaison with the LSCB on the subject

6.44 The Local Authority Social Services should designate officers to be involved in:

- the management and oversight of individual cases;
- providing advice and guidance to employers/ voluntary organisations;
- liaising with the police and other agencies; and
- monitoring the progress of cases to ensure they are dealt with as quickly as possible consistent with a thorough and fair process

6.45 In this guidance we have referred to this designated person as the LADO. The LADO will provide advice and guidance to the case manager, in addition to liaising with the police and other agencies, and monitoring the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

6.46 Police forces should also identify officers who will be responsible for:

- liaising with the LADO;
- taking part in the strategy discussion or initial evaluation;
- subsequently reviewing the progress of those cases in which there is a police investigation; and
- sharing information on completion of the investigation or any prosecution.

6.47 If the strategy discussion or initial assessment decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) about whether to: charge the individual; continue to investigate; or close the investigation. Wherever possible, that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.



## **Information sharing**

6.48 In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

6.49 Where the police are involved, wherever possible the employer should ask the police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as their investigation proceeds and will enable the police to share relevant information without delay at the conclusion of their investigation or any court case.

6.50 Children's social services should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer or independent investigator without delay.

## **Timescales**

6.51 It is in everyone's interest to resolve cases as quickly as possible, consistent with a fair and thorough investigation. All allegations must be investigated as a priority to avoid any delay by an appropriate person. Target timescales are shown below. The time taken to investigate and resolve individual cases depends on variety of factors including the nature, seriousness and complexity of the allegation, but these targets should be achieved in all be exceptional cases.

6.52 It is expected that a majority of cases, including any appeal should be resolved within 80 school days or 16 school weeks.

6.53 For those cases where it is clear immediately that the allegation is demonstrably false or malicious they should be resolved within one week.

6.54 Where the initial consideration decides that the allegation does not involve a possible criminal offence it will be for the employer to deal with it, although if there are concerns about child protection, the employer should discuss with the LADO. In such cases, if the nature of the allegation does not require formal disciplinary action (i.e. a hearing before the governing body staff disciplinary and dismissal committee), the employer should start appropriate action (i.e. the lesser misconduct process) within five school days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 40 school days.

## **Action following a criminal investigation or a prosecution**

6.55 The police or the Crown Prosecution Service (CPS) should inform the employer and LADO immediately when a criminal investigation and any

subsequent trial is complete, or if it is decided to close an investigation without charge, or not to continue to prosecute the case after the person has been charged. In those circumstances the LADO should discuss with the case manager whether any further action is required, and if necessary should arrange for a strategy meeting to be convened to consider the outcome of the court hearing and decide any further recommendations and actions.

6.56 The action taken will depend on the circumstances of the case and the consideration will need to take into account the result of the police investigation or the trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

6.57 For staff employed in maintained schools this will mean an immediate referral to the governing body so that they can complete the disciplinary process.

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the LADO should discuss with the case manager and their personnel adviser whether to refer the case to the DBS for consideration of inclusion on the barred lists.

6.58 There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. In such circumstances, the duty to refer an individual to the DBS arises where an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so. The DBS will consider whether to bar the person from working in regulated activity, which will include most work in schools and other establishments. Local authorities, schools, FE colleges and other bodies all have a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services.

6.59 Professional misconduct cases should be referred to the relevant regulatory body.

### **Action in respect of unfounded or malicious allegations**

6.60 If, following an investigation, an allegation is determined to be unfounded or malicious, the LADO should be informed so that they can refer the matter to Social Services to determine whether the child concerned is in need of services, or may have been abused by someone else. If an allegation is shown to be deliberately invented or malicious, the head teacher, principle or proprietor should consider whether disciplinary action is appropriate against the pupil who made it (this should be clearly set out in the school's pupil disciplinary policy); or whether the police should be asked to consider if

action might be appropriate against the person responsible even if he or she was not a pupil. In September 2010 the Crown Prosecution Service published [online guidance](#) for the police on harassment under the Protection from Harassment Act 1997.

### **Responsibilities of maintained school governing bodies – disciplinary and dismissal procedures**

6.61 Once the statutory authorities have completed their consideration of the allegation, the matter is referred back the governing body to complete the staff disciplinary process. The LADO should discuss the next steps with the Headteacher and the Chair of Governors. The options open to the school will depend on the nature and circumstances of the allegation and the evidence and information available.

6.62 The head teacher, chair of governors and the LADO should discuss:

- Whether no further action is required, in which case the reason and justification for it should be recorded;
- Whether there is clear evidence of misconduct which should be dealt with through the school's lesser misconduct procedures;
- Whether the allegation clearly constitutes gross misconduct which should be dealt with through the school's gross misconduct procedures;
- Whether the allegation suggests gross misconduct but further information is required or the complexity of the case is such that an independent investigation is required;

Governing bodies are responsible for the conduct and discipline of school staff, and any procedures for giving members of staff opportunities for seeking redress of any grievances relating to their employment, in accordance with the [Staffing of Maintained Schools \(Wales\) Regulations 2006](#) and the [Staffing of Maintained Schools \(Miscellaneous Amendments\) \(Wales\) Regulations 2007](#). A governing body is required to adopt rules and regulations to regulate the conduct and discipline of all staff it employs or has day-to-day responsibility for. This does not include certain ancillary staff, supply teachers or volunteers.

6.63 The [Government of Maintained Schools \(Wales\) Regulations 2005](#) require governing bodies to establish two committees:

- a Staff Disciplinary and Dismissal Committee – to determine whether a person employed at the school should cease to work there, have their contract of employment terminated or not renewed, and to hear representations in relation to such matters; and
- a Staff Disciplinary and Dismissal Appeals Committee – to hear appeals in respect of such decisions.

6.64 In accordance with sections 35(8) and 36(8) of the [Education Act 2002](#), governing bodies must have regard to the statutory guidance issued in Welsh Government [Circular 002/2013: Disciplinary and Dismissal Procedures for School Staff](#). This sets out the detailed requirements for the make up of such committees, the legal responsibilities of governing bodies on disciplinary issues, the procedures for dealing with lesser and gross misconduct allegations and behaviour, and provides specific advice to be followed by school governing bodies where an allegation of abuse is made against a member of staff. The Circular also contains a model staff discipline policy which is also statutory.

6.65 Where an allegation of abuse has gone to court and resulted in a caution or a custodial sentence being imposed, the disciplinary and dismissal process must still be completed to formally determine whether or not the member of staff's contract should be terminated in accordance with the law in the [Staffing of Maintained Schools \(Wales\) Regulations 2006](#).

### **Independent investigations**

6.66 Regulation 7(3) of the [Staffing of Maintained Schools \(Wales\) Regulations 2006](#) places a requirement on governing bodies to appoint an independent investigator to investigate allegations of a child protection nature against staff, prior to the hearing of any disciplinary proceedings relating to those allegations. The purpose of an independent investigation is to ensure a completely impartial and unbiased investigation is carried out.

6.67 The Welsh Government will shortly be consulting on proposals to amend the regulations in relation to independent investigations of allegations of abuse against teachers and other staff. The guidance on Disciplinary and dismissal procedures for school staff will be amended to reflect the outcome of the consultation.

6.68 Once the statutory authorities have completed their investigations, the Headteacher (providing they are not the subject of the allegation), Chair of Governors and the LADO should meet to consider whether an independent investigation is required and by whom it should be undertaken. It is the duty of the governing body to appoint an independent investigator. If the governing body decides that a referral should be made to the IIS the justification for this should be documented.

6.69 A governing body can choose who to appoint as an independent investigator, subject to the following restrictions imposed by regulation 7(4) which states that the independent investigator cannot be:

- a governor of the school in question;
- a parent/carer of a current or former pupil of the school in question;
- a current or former member of staff at the school in question; or
- a person currently employed by the LA that maintains the school.

6.70 Many local authorities already provide for an independent investigation of allegations, often as part of the personnel services that schools can buy in

from the authority.

6.71 To assist governing bodies the Welsh Government has established the Independent Investigation Service (IIS) which is free of charge to governing bodies of maintained schools who are under a duty to appoint an ISS (regulation 7(2)). The IIS will consider referrals of allegations of abuse, which if substantiated constitute gross misconduct. The IIS will not consider straightforward cases which have resulted in a caution, a criminal conviction or cases which would be considered lesser misconduct.

6.72 Once an independent investigation is requested by the chair of governors, it is the responsibility of the investigator to:

- define the areas to be investigated and the parameters of the investigation;
- consider all the evidence, including that supplied by the statutory authorities, and explore the facts relating to an allegation. This may mean interviewing witnesses although the investigator will try to minimise this where information can be obtained from documentary evidence including information from the statutory authorities;
- produce a report with factual findings based on evidence provided; and
- present the report at the disciplinary hearing and any appeal hearing, if requested.

6.73 At all times, the investigator will focus on factual evidence. The investigator will present findings impartially in the report and in any presentation to the committee. The investigator should not represent the views of any of the parties involved. The investigator should not make any comments, or express any personal opinions on the member of staff, the allegation or evidence gathered, the governing body or the LA.

6.74 In undertaking the investigation of allegations against school staff, an independent investigator may seek the agreement of the statutory authorities to the sharing of information gathered during a child protection investigation. The sharing of such information should take place within the framework of local multi-agency protocols, which are in place in each Local Safeguarding Children Board's area. There is a presumption that all information will be shared and that any information collected during the independent investigation will be shared with all parties.

6.75 Therefore, in order to avoid re-interviewing children and vulnerable adults, where information is held by the statutory authorities and any necessary parental/carer/guardian consent has been obtained, the relevant and appropriate information should be shared with the independent investigator. Consideration should also be given to obtaining the consent of the child, where necessary.

6.76 The report, once completed, should be given to the headteacher and chair of governors (or chair of governors and another governor in respect of allegations made against the headteacher). It should not be sent to the LA. The school governing body is the owner of the report given its responsibility in

law for undertaking the disciplinary process. The governing body will need to consider the findings of the report and decide whether:

- there is evidence to support a decision that the allegation has some foundation and constitutes gross misconduct and that it will therefore require a staff disciplinary and dismissal committee hearing;
- there is evidence to support a decision that the allegation constitutes lesser misconduct which can be dealt with by the headteacher (or chair of governors if the allegation is against the headteacher);
- there is no evidence to support the allegation and no further action needs to be taken against the member of staff.

6.77 If the investigation shows that the allegation was malicious and/ or vexatious, or made for personal gain, then the governing body should consider taking disciplinary action where appropriate against the person or pupil who made the allegation in line with the relevant policy, e.g. school behaviour policy, as appropriate.

6.78 Where it is shown that a parent/ carer or a non-employee has made a false or malicious/ vexatious allegation against a member of staff, the staff member should seek their own legal advice on what courses of action are open to them. This is not a matter for the governing body to become involved in.

### **Disciplinary hearings**

6.79 Where the investigation demonstrates that there appears to be sufficient evidence to warrant a disciplinary hearing with the staff disciplinary and dismissal committee, a hearing must be arranged. It is advisable to contact the LA HR department for all gross misconduct hearings.

6.80 The member of staff should be given as much information as possible, in writing, providing it does not compromise or place a member of staff or pupil in a difficult situation, e.g. by identifying a pupil who may be a witness, or identifying a member of staff who has whistleblown.

6.81 In line with Regulation 13 and Regulation 21 of the [Staffing of Maintained Schools \(Wales\) Regulations 2006](#), before making a decision, governing bodies must take into consideration any advice offered by the following people:

- In all maintained schools: the chief education officer or their representative are entitled to attend for the purpose of giving advice, all proceedings relating to any decision to dismiss or discipline a member of staff (Regulation 17(9) of the [Staffing of Maintained Schools \(Wales\) Regulations 2006](#));

- In voluntary-aided schools, the diocesan officer or their representative has the same advisory rights as those given to the chief education officer;
- In foundation schools the governing body may agree with the diocesan authority to award those same advisory rights to the diocesan officer or their representative;
- In all schools, the headteacher is entitled to attend all hearings of the staff disciplinary and dismissal committee and the staff disciplinary and dismissal appeals committee to give advice, except:
  - where the headteacher is the person against whom disciplinary action is being taken
  - where the headteacher is a witness to the incident which led to disciplinary action being contemplated
  - where the headteacher is the presenting officer.

### **Hearing decisions**

6.82 Having considered all the evidence and taking into account advice provided the committee can conclude that:

- the allegation is unproven and no action is to be taken
- the alleged behaviour constitutes lesser misconduct and a formal oral, written or final written warning should be issued
- the allegation of gross misconduct is proven and depending on the severity of the misconduct an appropriate sanction should be imposed, including:
  - specified required training and development
  - relegation to a lower-grade position (if practical) and/or loss of salary
  - summary dismissal.

6.83 Where a decision to dismiss the member of staff is taken and the LA holds the contract of employment for that member of staff, the committee must copy the letter to the chief education officer once the period allowed for the member of staff to appeal has expired and they have not appealed. The LA is required to dismiss the member of staff and should do so within 14 working days of notification of the decision by the staff disciplinary and dismissal committee or by the disciplinary and dismissal appeals committee (Regulation 17 of the [Staffing of Maintained Schools \(Wales\) Regulations 2006](#)).

6.84 Where a decision to dismiss the member of staff is taken and the member of staff is employed by the governing body of the school (voluntary aided and foundation schools), the letter of confirmation to the member of staff should also include notification of dismissal and any appropriate period of

notice.

## **Disciplinary appeals**

6.85 The member of staff is entitled to appeal against a decision of the staff disciplinary and dismissal committee. The disciplinary and dismissal appeals committee can uphold the decision of the staff disciplinary and dismissal committee, impose a lesser penalty or conclude that no action should be taken against the staff member. The committee must not impose a more severe penalty.

## **Staff resignations**

6.86 If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance and the statutory guidance issued by the Welsh Government in [Circular 002/2013: Disciplinary and Dismissal Procedures for School Staff](#). It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process.

6.87 Wherever possible the accused should be given a full opportunity to answer the allegation and make representations about it. However, the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete. However, it is important that the governing body completes the disciplinary process because if the decision is that the member of staff would have been dismissed had they still been in their employment, the governing body has a duty to make a referral to the Disclosure and Barring Service (DBS) and the GTCW. It is also important to record decisions and conclusions wherever possible to ensure that the employer complies with its obligations under the [Education \(Supply of Information\) \(Wales\) Regulations 2009](#).

6.88 So-called 'compromise agreements' by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should **not** be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate nor will it prevent the governing body from completing the disciplinary process. The staff disciplinary and dismissal committee will still have to meet, and if their decision is that they based on evidence they would have dismissed the member of staff if they had still been employed, then the governing body is under a statutory duty to make a referral to the DBS and the GTCW.



## **Supporting those involved**

6.89 Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action unless there is an objection by the children's social services or the police. The individual should be advised to contact their trade union representation, if they have one, or a colleague for support. They should also be given access to welfare counselling or medical advice where this is provided by the employer.

6.90 The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. For staff in maintained schools, that may include support via the local authority occupational health or employee welfare arrangements. Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

## **Confidentiality**

6.91 It is extremely important that when an allegation is made, the school or FE college makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered. The Education Act 2011 introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the GTCW publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions will also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so.

6.92 The legislation imposing restrictions makes clear that "publication" of material that may lead to the identification of the teacher who is subject of the allegation is prohibited. "Publication" includes any speech, writing material, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public". This means that a parent who, for example, published details of an allegation on a social networking site would be in breach of the reporting restrictions (if what was published could lead to the identification of the teacher by members of the public).

6.93 In accordance with the Association of Chief Police Officers' (ACPO) guidance, the police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. (In exceptional cases where the police would like to depart from that rule, e.g. an appeal to trace a suspect, they must apply to a magistrates' court to request that reporting restrictions be lifted).

6.94 The case manager should take advice from the LADO, police and children's social services to agree the following:

- Who needs to know and, importantly, exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

### **Record keeping**

6.95 Details of allegations that are found to have been malicious should be removed from personnel records. However, for all other allegations, it is important that a clear and comprehensive support of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned.

6.96 The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS Disclosures reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary reinvestigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of allegation if that is longer.

6.97 The Information Commissioner has published guidance on employment records in its [Employment Practices Code](#) and [Supplementary Guidance](#), which provides practical advice on employment retention.

### **References**

6.98 Cases in which an allegation was proven to be false, unsubstantiated, unfounded or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be unsubstantiated, malicious etc. should also not be included in any reference.

### **Learning lessons**

6.99 At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the case manager to

determine whether there are any improvements to be made to the school's procedures or practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not the suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated. The LADO and the case manager should consider how future investigations of a similar nature could be carried out without suspending the individual.

## **Referrals to the General Teaching Council for Wales (GTCW)**

6.100 The General Teaching Council for Wales (GTCW) is the statutory, self-regulating professional body for teachers in Wales. It seeks to raise the status of teaching by maintaining and promoting the highest standards of professional practice and conduct in the interests of teachers, pupils and the general public. Under [Section 134 of the Education Act 2002](#), and the [Education \(Specified Work and Registration\) \(Wales\) Regulations 2010](#), every qualified teacher who carries out the specified work of a teacher in a maintained school must be registered with the GTCW.

6.101 Under the [Education \(Supply of Information\) \(Wales\) Regulations 2009](#), employers of teachers registered with the General Teaching Council for Wales (GTCW) and supply agencies must report cases of misconduct and professional incompetence to the GTCW where the teachers have not harmed, or posed a risk of harm, to children and/or vulnerable adults.

6.102 Under the terms of the [Teaching and Higher Education Act 1998](#), as amended by [the Education Act 2002](#), the GTCW is responsible for investigating and hearing cases of unacceptable professional conduct, serious professional incompetence and/or where a teacher has been convicted (at any time) of a relevant offence, or it appears that a registered teacher may be so guilty or have been so convicted.

6.103 Employers are required to report to the GTCW directly, cases where registered teachers are dismissed on the grounds of incompetence or where the employer would have dismissed them or considered dismissing had they not resigned.

6.104 All referrals received by the GTCW are considered, investigated and heard in the public interest. This includes the protection of members of the public, the maintenance of public confidence in the profession and the declaration and upholding of proper standards of conduct and competence. The GTCW may investigate all referrals received where it is alleged that a registered teacher is guilty of unacceptable professional conduct or serious professional incompetence, and/or has been convicted (at any time) of a relevant offence.

6.105 The GTCW's powers in these matters are further set out under [the General Teaching Council for Wales \(Disciplinary Functions\) Regulations](#)

[2001](#)<sup>23</sup>, as amended.

6.106 The Regulations confer powers on the GTCW to make [Disciplinary Procedures and Rules](#), which provide detailed information on the process by which referrals are investigated, and the role and powers of the GTCW's Investigating Committee, Professional Conduct Committee and Professional Competence Committee.

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<sup>23</sup> Statutory Instrument 2001 No. 1424 (W.99)

## Chapter 7: Referrals to the DBS

### Introduction

7.1 This chapter outlines the circumstances and processes for making referrals to the Disclosure and Barring Service (DBS).

7.2 Under sections 35 and 36 of the [Safeguarding Vulnerable Groups Act 2006](#), all Regulated Activity providers and personnel suppliers are required to report directly to the DBS people who have harmed, or pose a risk of harm, to children and/or vulnerable adults. Local authorities, keepers of registers and supervisory authorities should also contact the DBS if they have similar concerns.

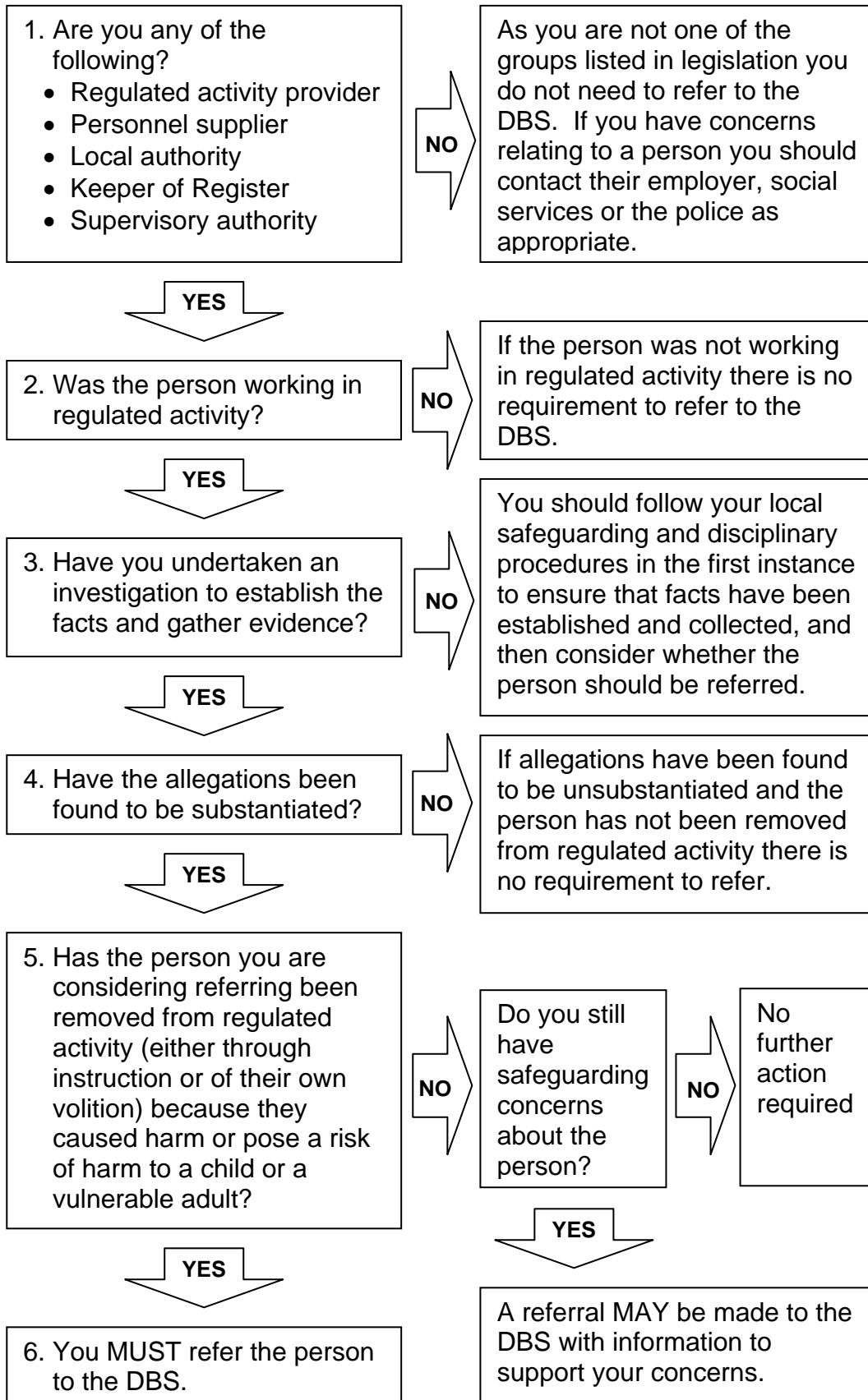
7.3 The DBS ensures that an independent, impartial and structured approach is used in assessing future risk on people who may continue to be a safeguarding concern because of their actions or behaviour.

7.4 If the DBS bars a person from working in regulated activity with either children or vulnerable adults, they will be breaking the law if they work or volunteer, or seek or offer to work or volunteer with those groups in regulated activity. Any organisation that employs someone who is barred from working with children and/or vulnerable adults commits an offence if they knowingly allow a barred person to engage in regulated activity with the group of which they are barred.

7.5 To make a referral, use the DBS referral form available at [www.gov.uk/dbs](http://www.gov.uk/dbs). Put as much detail as you can on the form and send any relevant information, such as disciplinary investigations or minutes of meetings.

7.6 The flow chart below summarises how to decide whether you must or could make a referral to the DBS. This chapter sets out in more detail the legal duties and powers of employers to make referrals to the DBS, and the circumstances in which regulators must refer to the DBS.

**Flow chart: how to decide whether to make a referral to the DBS**



## The duty to refer

7.7 The [Safeguarding Vulnerable Groups Act 2006](#) place a legal duty on employers of people working with children or vulnerable adults to make a referral to the Disclosure and Barring Service (DBS) in certain circumstances.

7.8 The following groups have a legal duty to refer:

- a. **Regulated activity providers** - organisations (including local authorities where they are the employer) or individuals responsible for the management or control of regulated activity (paid or unpaid) and which make arrangements for people to work in that activity; and
- b. **Personnel suppliers** - organisations that supply people to work in regulated activity (either paid or voluntary), including:
  - i. employment agencies which make arrangements to either find a person employment with a hirer or to supply them to a hirer to employ;
  - ii. employment businesses which engage a person and supplies them to a hirer to work under a hirer's control; and
  - iii. educational institutions which make arrangements to supply a student following a course at the institution to a regulated activity provider such as a school.

## Conditions for a referral under the duty to refer

7.9 Under the Duty to Refer, there are two conditions which should be met for a referral to be made by regulated activity providers or personnel suppliers. These are:

1. An employer has permanently removed or dismissed a person from working (paid or unpaid) in 'regulated activity' with children or vulnerable adults (or would have if the person had not left, resigned, retired or been made redundant); and
2. The employer believes that the person has:
  - (a) Engaged in relevant conduct – an action or inaction which:
    - endangers a child or is likely to endanger a child<sup>24</sup>;
    - if repeated, would endanger a child or would be likely to endanger them;
    - involves sexual material relating to children (including possession of such material);
    - involves sexually explicit images depicting violence against a person (including possession of such images);
    - is of a sexual nature involving a child;

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<sup>24</sup> A person's conduct endangers a child if they: harm a child; cause a child to be harmed; put a child at risk of harm; attempt to harm a child; or incite another to harm a child.

or

- (b) Satisfied the 'Harm Test' in relation to children and/or vulnerable adults: i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists. There needs to be credible evidence of a risk of harm, rather than a "feeling" that a person represents a risk to children and/or vulnerable adults. For example, a teacher who confides in their head teacher that they are sexually attracted to children (but who had not engaged in 'relevant conduct') would satisfy the harm test;

or

- (c) Been cautioned or convicted for a relevant (automatic barring) offence - a serious offence that will, subject to consideration of representations where permitted, automatically bar a person from working with children or vulnerable adults.

7.10 Before making a referral, the employer must first undertake an investigation (even if the person has left their employment) to gather sufficient evidence and information to make an informed decision that the allegation has foundation. It is crucial that supporting evidence is provided to the DBS when a referral is made; the DBS has no investigatory powers and relies upon the evidence provided with referrals. Without evidence or substance to the claims many allegations will be quickly closed down as there will be no foundation on which the DBS can proceed. If additional relevant information becomes available to an employer after making a referral, this should also be provided to the DBS. This will ensure that the DBS has all available information and evidence on which to base its decision.

## **The power to refer**

- 7.11 Other types of organisations are not under a legal duty to refer to the DBS but have a legal power to refer under sections 39, 41 or 45 of the Safeguarding Vulnerable Groups Act 2006. These are:
- Local authorities (when they are not acting as a regulated activity provider (the employer) – this will normally be when a local authority is undertaking its safeguarding role);
  - Keepers of Registers<sup>25</sup>; and
  - Supervisory Authorities<sup>26</sup>.

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<sup>25</sup> Keepers of Registers are defined under Section 41(7) of the SVGA 2006. These include the General Teaching Council for Wales (GTC W), Care Council for Wales, Nursing and Midwifery Council (NMC), Health and Care Professions Council (HCPC), General Medical Council (GMC), General Pharmaceutical Council (GPhC), General Dental Council (GDC), General Optical Council (GOC), General Osteopathic Council (GOsC), and General Chiropractic Council (GCC).



## Conditions for a referral under the power to refer

7.12 Under the Power to Refer, there are two conditions which should be met for a referral to be made by local authorities (when not acting as regulated activity provider), keepers of registers and supervisory authorities. These are:

1. The organisation thinks that:
  - a. the person they are referring is or has been, or might in the future be engaged in regulated activity; and
  - b. the DBS may consider it appropriate for the person to be included in a barred list.
2. The organisation believes that the person has:
  - a. engaged in relevant conduct; or
  - b. satisfied the 'Harm Test'; or
  - c. been cautioned or convicted for a relevant (automatic barring) offence.

## Changes for local authorities under the Protection of Freedoms Act 2012

7.13 The [Protection of Freedoms Act 2012](#) made changes to the [Safeguarding Vulnerable Groups Act 2006](#) which enables local authorities to refer a person to the DBS using either a duty to refer or a power to refer, depending on the circumstances:

- a) **Power to Refer:** The power to refer relates to when a local authority is not acting as a regulated activity provider (the employer). This will normally be when a local authority is undertaking its safeguarding role.
- b) **Duty to Refer:** The duty to refer relates to when a local authority is the employer of staff in regulated activity, whether they are employed directly, by contract or through a personnel supplier. In general terms a local authority would be considered a regulated activity provider if:
  - i. They are responsible for the management or control of regulated activity
  - ii. The regulated activity is carried out for the purposes of the local authority; and
  - iii. The local authority makes, or authorises the making of

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<sup>26</sup> Supervisory Authorities are defined under Section 45(7) of the SVGA 2006. These include: Welsh Government Ministers; Estyn (HM Chief Inspector of Education and Training in Wales); Care and Social Services Inspectorate Wales (CSSIW); Healthcare Inspectorate Wales (HIW); Charity Commission for England and Wales; Teaching Agency; and Office of the Public Guardian.

arrangements (whether in connection with a contract of service or for services otherwise) for another person to engage in regulated activity

## **Differences in information sharing between duty and power to refer**

7.14 The difference in the duty to refer and power to refer will require referring parties to take a different approach to information sharing when making a referral.

### **Information sharing when there is a duty to refer**

7.15 The duty to refer requires the referring organisation to supply prescribed information identified in the [Safeguarding Vulnerable Groups Act 2006 \(Prescribed Information\) Regulations 2008](#). Organisations are only required to supply the prescribed information if they hold it; there is no requirement to generate new information for the purposes of the referral.

7.16 While information may be provided in addition to the prescribed information, the referring organisation is legally bound to supply all of the prescribed information it holds.

7.17 Where there is a legal duty to refer, the information prescribed by the [Safeguarding Vulnerable Groups Act 2006 \(Prescribed Information\) Regulations 2008](#) is exempt from the non-disclosure provisions of the Data Protection Act (DPA) as the disclosure is required by legislation. This means that where an organisation is under a duty to refer, the DPA does not inhibit the sharing of information and the prescribed information may be legally provided to the DBS.

7.18 Where there is a duty to refer, it should be noted that:

- Failure to provide the information to the DBS without reasonable justification may result in, on summary conviction, a fine up to level 5 on the standard scale (presently up to £5,000).
- The DBS must ensure that in respect of any information it receives in relation to a person from whatever source or of whatever nature it considers whether the information is relevant to its consideration as to whether the person should be included in either the Children's or Adults 'Barred List.
- If an organisation making a referral wishes to provide information in addition to that prescribed in legislation, the additional information is not exempt under the DPA. This means that referring parties must ensure that they have addressed any legal considerations under the DPA and any other relevant legislation in the knowledge of how the DBS may process that information.

## Information sharing when there is a power to refer

7.19 While an organisation is compelled by law to supply information where a duty exists, the power to refer allows local authorities, keepers of registers and supervisory authorities to decide whether they feel any information they hold is relevant to supply to the DBS.

7.20 The exact nature and type of such information is not specified in law. Therefore, the information provided in a referral (where the power to refer exists) can take any form the referring party feels is appropriate.

7.21 As there is no legal duty to provide information under the power to refer, there is no exemption to the requirements of the DPA. When considering the release of information under the power to refer, it is important to keep in mind that any disclosure must be made in accordance with the DPA and compliance with any other relevant legal requirements (for example, other legislation such as [the Human Rights Act 1998](#)).

7.22 If a referring party is unsure what information they are able to disclose under the power to refer they should obtain independent legal advice.

## Duty to provide information on request

7.23 The DBS may require any information prescribed under the [Safeguarding Vulnerable Groups Act 2006 \(Prescribed Information\) Regulations 2008](#) on request. This duty to provide information on request is applicable where the DBS is considering:

- Whether to include a person in a barred list; or
- Whether to remove a person from a barred list.

7.24 In such circumstances it is irrelevant whether the local authority previously referred under a duty or power or not. Therefore, the DBS may require information on request from either:

- a. Those with a duty to refer:
  - Regulated activity providers
  - Personnel suppliers
- b. Those with a power to refer:
  - Local authorities (when not acting as regulated activity providers)
  - Keepers of registers
  - Supervisory authorities.

7.25 As this is a duty to provide information, the prescribed information requested is exempt from the non-disclosure provisions of the DPA as the disclosure is required by law. Therefore, where any party has received a request under the duty to provide information on request, they may disclose the prescribed information with reasonable confidence. However, if upon receipt of a request for information there is any doubt, it is advised that independent legal advice is sought.

## **Inclusion of sensitive information in referrals**

7.26 There may be occasions where a referring party may have concerns relating to the release of information to the DBS. This may be due to a general concern over the disclosure of sensitive personal information or more focused concerns, for example, where it is feared that the disclosure may impact the:

- prevention, detection or investigation of crime
- apprehension or prosecution of offenders, or
- safety, security or liberty of others (especially victims).

7.27 Where a referring party is under a duty to refer or a duty to provide information on request, there is a legal duty to provide information which may have this nature of sensitivity. Disclosing parties are required to provide sensitive personal information including details of any child or vulnerable adult who has been harmed or put at risk of harm.

7.28 There may be occasions when a referring party has safeguarding concerns relating to an individual's suitability to work with children or vulnerable adults but feels prohibited from disclosing information under the power to refer due to DPA or other legal issues. In such circumstances referring parties may wish to consider the redaction of information to reduce the sensitivity of information. By providing redacted information, DBS will still be able to consider the case and if necessary request additional information from other sources such as the relevant local authority, keeper of register, supervisory authority or other person / organisation.

7.29 If a party decides to provide redacted information it is important that any information provided still remains intelligible. Simply blacking out names may not be sufficient to hide the identity of an individual and this must also be considered when preparing a document.

7.30 Similarly, it is also important that it is apparent on reading the document what information relates to each person involved. In order to allow the DBS to identify which party an action, comment or other such information is attributable, names may be replaced with alternative tags such as initials, terms like, "Child 1", "Child 2" or other such methods of flagging and differentiating between individuals.

7.31 While it is requested that whenever possible information is provided in a non-redacted form, it would be preferable for information to be disclosed under the power to refer in a redacted form rather than not at all. This will allow concerns to be highlighted to the DBS which would otherwise go undisclosed and may lead to placing children at greater risk.

## **Regulator referrals to the DBS**

7.32 Professional regulators such as the General Teaching Council for Wales are provided with a power under the [Safeguarding Vulnerable Groups Act 2006](#) to make a referral to the DBS if a person on their register or being considered for their register has:

- Been cautioned or convicted for an ‘automatic’ barring offence; or
- Harmed or risked harm to a child or vulnerable adult such that the regulator thinks the DBS may consider barring the person.

7.32 This means that a regulator will always be able to exercise their professional discretion and judgement in deciding whether to make a referral to the DBS and in deciding what information is relevant to provide. If through their own fitness to practise processes a regulator effectively mitigates a safeguarding risk that arises only in the context of their profession, the power to make a referral may not be required.

7.33 A regulator will generally only consider making a referral to the DBS when they have completed their disciplinary processes and the statutory referral criteria are met.

7.34 If a case comes to the attention of a professional regulator and the DBS at the same time, the DBS will, in most cases wait for the regulator to complete their fitness to practise process prior to considering the case further. The key reason the DBS waits for a regulator to complete their investigations and disciplinary process first is that the DBS has no investigatory powers and relies on information and evidence from regulators and other bodies.

7.35 This is how, in the majority of cases, the relationship works between the DBS and professional regulators. The exception to this is where the DBS has sufficient, compelling information to proceed to a barring decision and it is in the interests of safeguarding children or vulnerable adults to do so. This is where it is in relation to an automatic barring offence or where the DBS holds relevant information about the person from another source that is not considered by the regulator or because the regulator is considering the specifics of a case and does not have access to other information.

7.36 The DBS is required by law to treat professional regulators as ‘competent bodies’. This means that the DBS accepts their formal ‘findings of fact’ as facts in its barring decision-making. Accordingly, if for example, a regulator’s finding of fact is that an allegation has no foundation and so the person’s professional registration is re-instated, in the absence of any sufficient, compelling safeguarding information to the contrary, the DBS will rely on the regulator’s ‘finding of fact’ and close the case.

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## **Appendix 2: Model child protection policy for schools**

### **Child Protection Policy for (Name of School)**

#### **1. Introduction**

*(Name of School)* fully recognises the contribution it makes to child protection.

There are three main elements to our policy:

- prevention through the teaching and pastoral support offered to pupils;
- procedures for identifying and reporting cases, or suspected cases, of abuse. Because of our day to day contact with children school staff are well placed to observe the outward signs of abuse; and
- support to pupils who may have been abused.

Our policy applies to all staff and volunteers working in the school and governors. Learning support assistants, mid-day supervisors, caretakers, secretaries as well as teachers can be the first point of disclosure for a child.

#### **2. Prevention**

We recognise that high self-esteem, confidence, supportive friends and good lines of communication with a trusted adult helps to safeguard pupils.

The school will therefore:

- establish and maintain an ethos where children feel secure and are encouraged to talk, and are listened to;
- ensure children know that there are adults in the school whom they can approach if they are worried or in difficulty;
- include in the curriculum, activities and opportunities for Personal Social Education (PSE) which equip children with the skills they need to stay safe from abuse and to know to whom to turn for help; and
- include in the curriculum, material which will help children develop realistic attitudes to the responsibilities of adult life, particularly with regard to childcare and parenting skills.

#### **3. Procedures**

We will follow the All Wales Child Protection Procedures that have been endorsed by the Local Safeguarding Children Board.

The school will:

- ensure it has a designated senior member of staff, who has undertaken the appropriate training;
- recognise the role of the designated person and arrange support and training. Schools may wish to mention the additional training undertaken by their designated person;
- ensure every member of staff and every governor knows:
  - the name of the designated person and their role;
  - that they have an individual responsibility for referring child protection concerns using the proper channels and within the timescales agreed with the Local Safeguarding Children Board; and
  - how to take forward those concerns where the designated person is unavailable.
- ensure that members of staff are aware of the need to be alert to signs of abuse and know how to respond to a pupil who may disclose abuse;
- ensure that parents have an understanding of the responsibility placed on the school and staff for child protection by setting out its obligations in the school brochure;
- provide training for all staff so that they know:
  - their personal responsibility;
  - the agreed local procedures;
  - the need to be vigilant in identifying cases of abuse; and
  - how to support a child who discloses abuse.
- notify the local social services team if:
  - a pupil on the child protection register is excluded either for a fixed term or permanently; and
  - if there is an unexplained absence of a pupil on the child protection register of more than two days duration from school (or one day following a weekend);
- work to develop effective links with relevant agencies and co-operate as required with their enquiries regarding child protection matters including attendance at initial review and child protection conferences and core groups and the submission of written reports to the conferences;
- keep written records of concerns about children (noting the date, event and action taken), even where there is no need to refer the matter to social services immediately;
- ensure all records are kept secure and in locked locations;

- adhere to the procedures set out in the Welsh Government circular 002/2013: 'Disciplinary and Dismissal Procedures for School Staff';
- ensure that recruitment and selection procedures are made in accordance with Welsh Government guidance 'Safeguarding Children in Education'; and
- designate a governor for child protection who will oversee the school's child protection policy and practice.

#### **4. Supporting the Pupil at Risk**

We recognise that children who are at risk, suffer abuse or witness violence may be deeply affected by this.

This school may be the only stable, secure and predictable element in the lives of children at risk. Nevertheless, when at school their behaviour may be challenging and defiant or they may be withdrawn.

The school will endeavour to support the pupil through:

- the content of the curriculum to encourage self esteem and self motivation (see section 2 on Prevention);
- the school ethos which:
  - promotes a positive, supportive and secure environment; and
  - gives pupils a sense of being valued (see section 2 on Prevention);
- the school's behaviour policy is aimed at supporting vulnerable pupils in the school. All staff will agree on a consistent approach which focuses on the behaviour of the offence committed by the child but does not damage the pupil's sense of self worth. The school will endeavour to ensure that the pupil knows that some behaviour is unacceptable but s/he is valued and not to be blamed for any abuse which has occurred;
- liaison with other agencies who support the student such as Social Services, Child and Adolescent Mental Health Services, the Educational Psychology Service, Behaviour Support Services, the Education Welfare Service and Advocacy Services; and
- keeping records and notifying Social Services as soon as there is a recurrence of a concern;

When a pupil on the child protection register leaves, we will transfer information to the new school immediately and inform Social Services.



## **5. Bullying**

Our policy on bullying is set out in *(a separate document/ the school's behaviour policy)* and is reviewed annually by the governing body.

## **6. Physical Intervention**

Our policy on physical intervention is set out in *(a separate document)* and is reviewed annually by the governing body.

## **7. Children with Statements of Special Educational Needs**

We recognise that statistically children with behavioural difficulties and disabilities are most vulnerable to abuse. School staff who deal with children with profound and multiple disabilities, sensory impairment and or emotional and behaviour problems need to be particularly sensitive to signs of abuse.

## Appendix 3: Model note for staff

### What to do if a child tells you they have been abused by someone other than a member of staff

*N.B. Where the allegation is against a member of staff you should refer to Welsh Government Circular 002/2013: [Disciplinary and Dismissal Procedures for School Staff](#).*

A child may confide in any member of staff and may not always go to a member of the teaching staff. Staff to whom an allegation is made should remember:

- yours is a listening role, do not interrupt the child if he or she is freely recalling significant events. Limit any questions to clarifying your understanding of what the child is saying. Any questions should be framed in an open manner so as not to lead the child;
- you must report orally to the school's **designated senior person for child protection** immediately;
- make a note of the discussion, as soon as is reasonably practicable (but within 24 hours) to pass on to the school's designated person for child protection. The note which should be clear in its use of terminology should record the time, date, place and people who were present and should record the child's answers/responses in exactly the way they were said as far as possible. Remember, your note of the discussion may be used in any subsequent court proceedings;
- do not give undertakings of absolute confidentiality;
- that a child may be waiting for a case to go to the criminal court, may have to give evidence or may be awaiting care proceedings; and
- your responsibility in terms of referring concerns ends at this point, but you may have a future role in terms of supporting or monitoring the child, contributing to an assessment or implementing child protection plans.

### Confidentiality

Confidentiality issues need to be understood if a child divulges information they are being abused. A child may only feel confident to confide in a member of staff if they feel that the information will not be divulged to anyone else. However, education staff have a professional responsibility to share relevant information about the protection of children with the designated statutory agencies when a child is experiencing child welfare concerns.

It is important that each member of staff deals with this sensitively and explains to the child that they must inform the appropriate people who can help the child, but that they will only tell those who need to know in order to be able to help. They should reassure the child and tell them that their situation will not become common knowledge within the school. Be aware that it may well have taken significant courage on their part to disclose the information and that they may also be experiencing conflicting emotions, involving feelings of guilt, embarrassment, disloyalty (if the abuser is someone close) and hurt.

Please remember the pastoral responsibility of the education service. Ensure that only those with a professional involvement, e.g. the designated senior person and the head teacher, have access to the child protection records. At all other times they should be kept securely locked and separate from the child's main file.

The designated child protection person for this school is

.....

The local authority designated lead officer for child protection is

.....

tel no .....

## **Appendix 4: Model note for parents or carers**

Parents/ carers should be aware that schools have a responsibility to ensure the well-being of all pupils. This responsibility means that the school:

- will have a child protection policy and procedures;
- should make parents or carers aware of its child protection policy possibly through the school prospectus, and that this may require their child to be referred to the statutory child welfare agencies if they believe that the child or other children may be at risk of significant harm;
- should endeavour to work with parents/carers regarding the welfare of their child and remain impartial if their child is being, or has been referred;
- should help parents or carers understand that if a referral is made to social services or the police, it has been made in the best interests of the child and that the school will be involved in any child protection enquiry or police investigation in relation to their child's welfare and educational progress; and
- keep the parents or carers informed of the welfare and educational progress of the child.

On 1 September 2006, section 175 of the Education Act 2002 came into effect. This introduces a duty on local authorities, the governing bodies of maintained schools, and the governing bodies of further education institutions, to have arrangements in place to ensure they safeguard children and that such arrangements take account of guidance issued by the Welsh Government.

Independent schools are required to meet equivalent requirements under standards introduced under regulations made under section 157 of the Education Act 2002.

Where a professional has a concern about a child, they will, in general, seek to discuss this with the family and, where possible, seek their agreement to making a referral to social services. However, this should only be done where such a discussion and agreement will not place a child at increased risk of significant harm. That advice will be provided by the local social services department in consultation, where appropriate, with the police.

The designated child protection person at the school should clarify with these statutory agencies, when, how and by whom, the parents or carers will be told about any referral. They should also seek advice as to whether or not the child should be informed of the process.

As a parent or carer you may sometimes feel alone but there is usually somebody you can talk to. Caring for children is not always easy and if you're struggling to cope you may need to ask for help and support to protect your child.

You may find the following helpful:

- make time to talk and listen to your child;
- familiarise yourself with your child's friends and routine;
- be sensitive to changes in behaviour;
- teach your child to feel confident to refuse to do anything they feel is wrong;
- be aware of your child's use of the internet and mobile phone to ensure they don't place themselves at risk.

## Appendix 5: Model note for pupils

If someone is hurting you or your friends, there are people who can help you and stop people from making you feel scared or hurt.

You should tell someone you trust:

- you can tell a teacher, your parents, carers, grandparents or other members of your family who may be able to help, or can tell a friend; and
- let people help to make things better by stopping the person from hurting you or your friends.

The person in this school who has special responsibility for helping you if someone's hurting you or your friends is

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If you can't talk to any of these, you can talk to one of the following organisations that will have someone who will listen to you:

### **Barnardo's**

Barnardo's works with vulnerable children and young people, helping them and their families to overcome problems like abuse, homelessness and poverty.

[www.barnardos.org.uk](http://www.barnardos.org.uk)

Tel: 020 8550 8822 (national rate, 8am-6pm Mon - Fri)

### **BBC Radio 1 Advice**

This website provides advice for young people on sex and relationships, alcohol and drugs, bullying, health and wellbeing, money, the law, studying and work.

[www.bbc.co.uk/radio1/advice](http://www.bbc.co.uk/radio1/advice)

### **Bullying Online**

Bullying Online is a website that provides information and support for a wide range of parents, pupils, teachers and youth organisations.

[www.bullying.co.uk](http://www.bullying.co.uk)

### **BAWSO**

BAWSO supports people from Black and Ethnic Minority backgrounds who are affected by domestic abuse and other forms of abuse, including female genital mutilation, forced marriage, human trafficking and prostitution. Its free helpline is open 24 hours a day.

[www.bawso.org.uk](http://www.bawso.org.uk)

Freephone: 0800 731 8147

**Childline**

A free 24-hour advice line offering counselling and support to young people suffering from abuse. The call won't show up on your phone bill.

Freephone: 0800 11 11

[www.childline.org.uk](http://www.childline.org.uk)

**Children's Commissioner for Wales**

The Children's Commissioner for Wales' job is to stand up and speak out for children and young people. He works to make sure that children and young people are kept safe and that they know about and can access their rights.

The lines are open from 9am to 5pm (Monday to Friday).

[www.childcom.org.uk](http://www.childcom.org.uk)

Freephone: 0808 801 1000

Text: 80800 (start your message with COM)

**CLIC**

CLIC is an online channel and printed zine offering information, news and advice for all young people aged 11 to 25 in Wales on a wide range of subjects and issues, including where to get support in your local area. The focal point of CLIC is interactive websites which allow young people and the organisations that work with them to upload articles, pictures, videos and themes, and to publicise events and activities.

[www.cliconline.co.uk](http://www.cliconline.co.uk)

**Dan 24/7**

A free and bilingual telephone drugs helpline providing a single point of contact for anyone in Wales wanting further information or help relating to drugs or alcohol.

[www.dan247.org.uk](http://www.dan247.org.uk)

Freephone: 0808 808 2234

Text DAN to 81066

**Funky Dragon**

Funky Dragon is a peer-led organisation that aims to make sure the views of 0 - 25 year olds are heard, particularly by the Welsh Government.

[www.funkydragon.org](http://www.funkydragon.org)

**Get Connected**

Get Connected provides a free, confidential helpline that gives young people in difficult situations support and information.

0808 808 4994

[www.getconnected.org](http://www.getconnected.org)

**Kidscape**

Kidscape works with children and young people under the age of 16, their parents/carers and those who work with them to prevent bullying and child sexual abuse.

[www.kidscape.org.uk](http://www.kidscape.org.uk)

08451 205 204

**MEIC**

A free, confidential, anonymous helpline service for children and young people up to the age of 25 in Wales. Open 24hrs a day, 7 days a week, you can contact MEIC by phone, SMS text and online instant messaging, and in Welsh or English.

<http://meiccymru.org>

Freephone: 0808 80 23456

Text (free): 84001

**NSPCC**

A free phone line offering support and advice to young people in abusive or difficult situations. The lines are open 24 hours a day and the calls won't show up on your phone bill.

[www.nspcc.org.uk](http://www.nspcc.org.uk)

Freephone: 0808 800 5000

**Samaritans**

Free and confidential advice and support

[www.samaritans.org.uk](http://www.samaritans.org.uk)

Freephone: 08457 90 90 90

**Talk to Frank**

Talk to Frank provides friendly, confidential advice about drugs. Lines are open 24 hours a day, 365 days a year. It also has live online chat every day between 2 – 6pm.

[www.talktofrank.com](http://www.talktofrank.com)

Free phone 0800 77 66 00

Text 82111

Email [frank@talktofrank.com](mailto:frank@talktofrank.com)

**Wise Kids**

Wise Kids is a website that provides information and support on internet literacy, proficiency and knowledge of the intranet and related technologies.

[www.wisekids.org.uk](http://www.wisekids.org.uk)