

23 July 2024

Dear

ATISN 19661 Request for Codes of practice and other information

Thank you for your request which I received on 25 June following an exchange of emails clarifying the information you were seeking. You agreed the information you want is:

“The position regarding any requirement for there to be a head of safeguarding within education and children’s services / social services in Wales. Also the framework in terms of compliance with safeguarding requirements and the process to hold senior management within an authority to account, including any provisions which govern gross failures in relation to safeguarding and whether these can lead to individuals being barred from holding public office”.

Our response

I have decided that whilst the legislation which covers these arrangements and the underpinning guidance which explains the requirements, is already in the public domain and is exempt from disclosure under section 21 of the Freedom of Information Act 2000 as it is already in the public domain and readily accessible to you, we feel it is helpful to provide links to the information.

I am sure you will understand the Welsh Government is unable to offer any legal advice or interpretation on the law. If you require legal advice or interpretation you should seek your own legal advice.

Turning to the information you have requested, local authorities in Wales have statutory duties under the [Social Services and Well-being \(Wales\) Act 2014](#), (the 2014 Act) when performing functions under that Act, to promote the well-being of people who need care and support, and carers who need support.

[Section 144](#) of the 2014 Act states: A local authority must appoint an officer, to be known as the director of social services, for the purposes of its social services functions. A local authority may not appoint a person to be its director of social services unless it is satisfied that the person has demonstrated competencies specified by the Welsh Ministers under [Section 145](#) or in regulations.

[Part 8 Code of Practice on the Role of the Director of Social Services \(Social Services Functions\)](#) includes:

64. Safeguarding children and adults at risk of abuse or neglect is everyone’s responsibility. However, the director of social services must show leadership to ensure effective safeguarding arrangements are in place both within the local authority and by relevant partners.

65. *The director of social services must oversee and report to councillors, on a consistent basis, regarding the operation, monitoring and improvement of child and adult safeguarding systems within the local authority.*

66. *Defined arrangements with other officers within the local authority, particularly the head of adult services and head of children services, as set out in Chapter 2, must be clear in relation to delegation and reporting arrangements related to safeguarding issues.*

The Wales Safeguarding Procedures [Safeguarding Wales](#) help practitioners apply the 2014 Act, and a compendium of statutory safeguarding guidance called Working Together to Safeguard People (Volumes 1 – 7) can be found here: [Safeguarding guidance | GOV.WALES](#)

These procedures and guidance are intended to guide safeguarding practice for all those employed in the statutory, third (voluntary) and private sector in health, social care, education, police, justice and other services. They are applicable for all practitioners and managers working in Wales - whether employed by a devolved or non-devolved agency.

[Section 150](#) of the 2014 Act says there are 3 grounds for intervention in a local authority's exercise of its social services functions:

GROUND 1 - the local authority has failed, or is likely to fail, to comply with a duty that is a social services function;

GROUND 2 - the local authority has acted, or is proposing to act, unreasonably in the exercise of a social services function;

GROUND 3 - the local authority is failing, or is likely to fail, to perform a social services function to an adequate standard.

We have issued statutory guidance [Keeping Learners Safe](#) (KLS) to support schools in creating and maintaining a safe learning environment for children. This guidance must be read and followed by local authorities and governing bodies of maintained schools (including maintained nursery schools), voluntary-aided and foundation schools, and further education institutions, under section 175 of the Education Act 2002.

Whilst legislation does not require a local authority to have a named officer responsible for safeguarding it is clear in KLS guidance of the requirement to have a senior officer designated for discharging safeguarding duties in education. This can be found at page 13 of the guidance under the heading 2. Local authority designated lead officer for safeguarding in education.

2.2 Local authorities must ensure that an appropriate senior officer within its education department is designated to have lead responsibility for discharging its safeguarding duties in education. The range of responsibilities attributed to this designated officer post should be consistent with the need to ensure that

effective safeguarding arrangements operate across the authority's education functions.

Local authorities' responsibilities are also included under this section of the guidance.

All schools have statutory duties to operate in a way that takes into account the need to safeguard and promote the well-being of children. The arrangements that local authorities and governing bodies have in place to comply with these statutory duties need to ensure reasonable measures are taken to minimise risks of harm to children's well-being and that appropriate actions are taken to address concerns about the well-being of a child or children, working to agreed local policies and procedures in full partnership with other local agencies.

The process for holding senior management to account within a local authority is an employment matter for each individual local authority. The [Code of Conduct \(Qualifying Local Government Employees \(Wales\) Order 2001\)](#) sets out the code of conduct expected by local authority employees and is part of their terms and conditions of employment.

It is the responsibility of the full council to appoint or dismiss a Chief Executive.

If you require hard copies of documents please do let me know.

Next steps

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit,
Welsh Government,
Cathays Park,
Cardiff,
CF10 3NQ

or Email: Freedom.ofinformation@gov.wales

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely