

# Consultation Response Form: Regulations and statutory guidance in relation to part 7 of the Act, on **Safeguarding**

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Responses should be returned by **2 February 2015** to:

Sustainable Social Services Implementation Branch  
Social Services Directorate  
Welsh Government  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

Alternatively the consultation response form is available on our website (<http://wales.gov.uk/consultations/?lang=en>) and can be returned to us by e-mail to: [sswbimplementation@wales.gsi.gov.uk](mailto:sswbimplementation@wales.gsi.gov.uk)

## Safeguarding

**1. To what extent do you agree that the role of the authorised officer (who may apply for an adult protection and support order) should be restricted to an officer of the local authority?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Please explain

**2. To what extent do you agree with the lead partners nominated by the Safeguarding Boards for each Safeguarding Children Board and each Safeguarding Adults Board, as set out at section 10.1?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Please explain

**3. To what extent do you agree that the functions of a Safeguarding Board are aligned to their principal priorities?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	<b>Tend to disagree</b> <input type="checkbox"/>	Disagree <input type="checkbox"/>
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What else should be prescribed?

The overarching aim should be fulfilment of Article 19 on the UNCRC:

*“1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*

*2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.”*

We feel that the functions of Safeguarding Boards are clearly split between its main priorities of protecting and preventing. Our response references the functions of Safeguarding Children Boards as this is most relevant to our remit.

In terms of the Safeguarding Boards’ two main functions of protecting and preventing, we would suggest the following additions are made:

Protecting:

- **Review and drive improvement to child protection systems across the region ( we feel the word “reviewing” does not sufficiently reflect the fact that Safeguarding Boards should be the vehicle for driving improvement child protection systems in their area)**

Preventing:

- **Responding to new safeguarding issues and implementing new policy and procedures, such as those developed through the Welsh Neglect Project (see below)**

The Welsh Neglect Project is commissioned and funded by Welsh Government and aims to improve the multi-agency responses and services for neglected children and their families, and it works across the spectrum of need. Key findings from the first year's evidence gathering were:

- There is a firm commitment amongst staff in all agencies in Wales to improve our collective response to neglected children and families and many Safeguarding Children Boards are working to improve the identification and response to child neglect through neglect protocols, training and use of neglect assessment tools.
- Front-line workers frequently described their lack of confidence to decide when to take action in cases of neglect and a lack of clarity about what constitutes good enough parenting.
- Front-line workers find it difficult to evidence neglect and this can impact on children and families receiving early support.
- Locally services are often planned, managed and delivered separately which can result in fragmentation and neglected children not receiving the help they need.

The findings demonstrated that professionals needed help with identifying, assessing and intervening when there are concerns about neglect and that the provision of early help through universal services, is crucial. Not enough is known about the scale and nature of neglect in Wales which impacts upon commissioning an effective response. The second year of the project is focusing on the development of resources and some further evidence. In 2015/16 the focus will be on implementation of the resources and training of frontline workers.

In our view, the key question which needs to be answered is **how will Safeguarding Children Boards be able to effectively drive change and improvement**. Their functions are wide ranging, and in a time of financial constraints, it will be crucial that their budgets are set at a level which enables them to work effectively.

Crucially, all Safeguarding Boards are able to do is to *“review the efficacy of measures taken by those Safeguarding Board members and bodies represented on the Board, and by other bodies with safeguarding responsibilities within the area of the Board, either individually or collectively, to implement the objectives of the Board and to make whatever recommendations it sees fit to those bodies in light of such a review”* and to *“monitor the extent to which any recommendations made under paragraph c or d are being or have been met”* (paragraph 11.7 of the guidance).

This falls short of holding local agencies to account for meeting their safeguarding obligations. The view of NSPCC Cymru/Wales is that **all local agencies should be held to account for exercising their safeguarding duties appropriately and effectively and so this function should be strengthened**. We are concerned that currently front line practitioners are often unaware of the work of their LSCB, and although the Child Practice Reviews will help address this, we feel that dissemination of information to practitioners should also be strengthened. The issue of accountability is particularly important in the context of bigger, regional Safeguarding Boards, where a variety of agencies with differing interests will be represented. The recent report of the Independent Inquiry into Child Sexual Exploitation in Rotherham is a powerful reminder of how things can go wrong if accountability is not strong: *“it raises questions about the concept of accountability as applied to such a large, disparate group of people. (...) It is sufficient to be reminded that accountability for successful outcomes is a central feature of good child protection work. The concept of “shared accountability”, which some apply to the work of Safeguarding Boards is dubious and potentially dangerous.”*

Holding local agencies to account **would be much more effectively achieved if Safeguarding Boards were independently chaired.** NSPCC Cymru/ Wales believes that challenge and scrutiny is important to ensure effectiveness and we feel that Independent Chairs can better hold other agencies to account and provide independent challenge to board members, who may not be challenged robustly within a partnership, particularly where the personal relationships are strong. We feel that there can be conflicts of interest when LSCBs are chaired by Heads of Children’s Services or Directors of Social Services. We recommend that members are able to hold social services to account and accountability of chairs and their relationship with each of the Heads of Children’s Services needs to be carefully considered in the new safeguarding structures in Wales. Effective leadership of the new regional Safeguarding Children Boards in Wales, which will cover between 2 and 6 local authority areas, will require the chair to have knowledge of and be linked into the safeguarding structures of each of the local authority areas that the SCB covers. This will be more challenging and require dedicated time that will be difficult to find on top of an already busy job in one of the local agencies. We are disappointed that the Welsh Government has decided not to recommend independent chairs for Safeguarding Boards, and feel that there has been a missed opportunity to strengthen and develop the role of the Boards within the new safeguarding structures.

We feel it is important for Safeguarding Boards to be have the option to choose an independent chair and so strongly recommend that the Regulation 5(2) is changed from

*‘At the first meeting of a Board, the members present must appoint one of the members as Chair and one as vice Chair.’ to*

*‘At the first meeting of a Board, the members present must make arrangements to appoint a Chair and vice Chair.’*

**4. To what extent do you agree with the criteria for undertaking a concise and extended Adult Practice Review?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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If you do not agree, what criteria should be used?

**5. To what extent do you agree that the guidance is clear about the responsibilities of Safeguarding Boards to ensure appropriate membership?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	<b>Disagree</b> <input type="checkbox"/>
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NSPCC Cymru/Wales **is disappointed that the NSPCC is not mentioned under the section “Other Board Members”** (paragraphs 11.44 to 11.46). The previous guidance, “Safeguarding Children, Working Together under the Children Act 2004” states *“the Act makes provision for representatives of such other relevant persons or bodies as the authority by which it is*

*established consider, after consulting their Board partners, be represented on it. The Local Authority should therefore secure the involvement of other relevant local organisations and the NSPCC where a representative is made available.”*

**We feel very strongly that the new guidance should replicate Working Together and name the NSPCC under “Other Board members”.** Reasons for this are outlined below.

In England and Wales, the Children Act 1989 gives the NSPCC “Authorised Person Status”. This means that the NSPCC has statutory powers to intervene on behalf of children and can apply to a court for a care, supervision, or child assessment order. Because of this quasi statutory status, we feel we are a key partner within the Welsh safeguarding structures. This justifies being specifically named as a board member under the guidance on membership of Safeguarding Boards.

Additionally, as NSPCC does not generally contract with local authorities, we bring an independent voice to the work of Safeguarding Boards. We bring specialist knowledge and expertise, the diversity of services and experience of Managers and Practitioners within the organisation also allows for effective engagement in sub group activity, often in a chairing role. We chair a variety of other sub-groups including child practice reviews, governance and business planning sub-groups.

We also have an extensive child protection research programme. For example, we work in partnership with the Cardiff University’s Cochrane Institute of Primary Care and Public Health who conduct systematic reviews into different types of abuse, and produce Core Info leaflets with key findings aimed at practitioners.

As an organisation currently engaged in representation on LSCBs across England and Wales, we have the opportunity to share learning, particularly effective in sharing examples of LSCB policies, templates, processes and what works well/not so well. In effect although our representative may be local they do have access to national resources and a dedicated team to support their activity.

The NSPCC are also commissioned by Boards to contribute to Case Review activity as case review report authors; lead reviewers; panel chairs and through the delivery of associated learning events. More recently we have been providing Boards with activity around case review learning, training and development of other case reviewing methodologies and processes.

### ChildLine

We provide ChildLine and can bring a focus on children's voices. It is difficult to share specific regional information on contacts, we can give specific data on particular themes, and messages from children and young people.

### Helpline

Once again, similar to ChildLine in terms of data produced, but we also provide commissioned helplines which can be used if an LSCB is tackling a potentially widespread abuse case such as CSE or a case in an educational setting.

### Training

Although we do offer training through our national services which would be chargeable, where we sit on LSCBs we often provide free local ‘seminar events’ for professionals delivered by our practitioners which may be around learning from our local service, these events are very

popular and support LSCBs in delivering their training agendas within their usually limited budgets. We often provide free events, such as the recent launch of our Core info leaflets on neglect in school age children and adolescents and our seminar on safeguarding disabled children.

### Repository for Case Reviews

The Repository includes published case reviews that are either deposited by English LSCBs or identified by the NSPCC Information Service. There are several benefits to LSCBs:

- Where a Serious Case Review has to be anonymised but still published, it can be deposited in the Repository by the Association of LSCB Chairs with the LSCB anonymised. This ensures the key learning from the case is still identified but locality of the board is not, which in turn helps to protect the identity of the child/children.
- Thematic briefings highlight the learning from the case reviews, focusing on a different topic, pulling together key risk factors and practice recommendations to help practitioners understand and act upon the learning from case reviews. LSCBs have the opportunity to request thematic reviews on a specific topic. Topics covered to date include:
  - CSE
  - Culture and Faith
  - Disguised compliance
  - Domestic abuse
  - Education
  - First generation immigrants, asylum seekers and refugees
  - Housing
  - Home education
  - Online abuse
  - People whose first language is not English
  - Teenagers
  - Parental substance misuse
  - Suicide

Finally, our contribution to the work of LSCBs in Wales is warmly welcomed by our partners, as evidenced in the supportive quote below from the Chair of the Cardiff and Vale of Glamorgan Local Safeguarding Children Board:

*“As Chair of the Cardiff and Vale of Glamorgan Local Safeguarding Children Board, I am concerned that the NSPCC is not named under “other board members” in the Code of Practice underpinning Part 7 of the Social Services and Wellbeing Act (paragraphs 11.44 to 11.46), in*

contrast to the previous guidance under “Safeguarding Children: Working Together under the Children Act 2004”.

*I feel it is important that the NSPCC’s Authorised Person Status is recognised and I am strongly in support of maintaining the special mention of the NSPCC in the guidance. This was also the consensus which emerged from a recent meeting with members of the Safeguarding Advisory Panel held by Chairs of Regional Boards and Business Unit staff, notwithstanding their recognition of the need to be too prescriptive in defining membership and thereby constraining local autonomy.*

*The NSPCC has played an active and valuable role in the work of the LSCB over recent years; its representatives have been highly regarded for their knowledge, skills and objectivity. They have been members on the Board and Executive, chairing the Governance, Child Practice Review and Business Planning sub-groups. They are also a member of the Sexual Harm sub-group and Audit sub-group. “*

**We very much hope that the Welsh Government will amend the guidance so that the NSPCC continues to be a named Board member.**

**6. To what extent do you agree that the guidance is clear about the responsibilities of Safeguarding Boards to ensure engagement with a wide range of organisations involved in safeguarding in the Safeguarding Board area?**

Agree <input type="checkbox"/>	<b>Tend to agree</b> <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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While NSPCC Cymru/Wales feels that the guidance is relatively clear on who Safeguarding Boards should engage with and how, we feel that **there should be further detail in guidance about what that engagement seeks to achieve.** Engagement should add value, and this in our view should be evidenced in the Board’s annual plan.

**7. To what extent do you agree that the regulations and guidance enable effective participation of users in the work of Safeguarding Boards?**

Agree <input type="checkbox"/>	Tend to agree <input type="checkbox"/>	<b>Tend to disagree</b> <input type="checkbox"/>	Disagree <input type="checkbox"/>
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Section 12 of the Code of Practice talks about offering children and young people the opportunity to participate in the work of Safeguarding Boards but doesn’t give any details of what participation must achieve. **In our view, the Code needs to clarify that Safeguarding Boards should undertake a scoping exercise of what service user participation is for and what it will seek to achieve,** otherwise there is a risk that it will turn into a tokenistic tick box exercise. The annual plan is a good place for such a scoping exercise.

Participation work with children and young people **should be rooted in the principles of the United Nations Convention on the Rights of the Child, and we feel this should be explicitly mentioned in the Code.** This means that not only should children and young people be consulted and involved in the work of Safeguarding Boards, but the **work of Safeguarding Boards and annual reports should clearly demonstrate how they are contributing to implementing a rights based approach to safeguarding and protecting children and young people at local level.**

**8. To what extent do you agree with the proposed content of the annual plan?**

Agree <input type="checkbox"/>	<b>Tend to agree</b> <input type="checkbox"/>	Tend to disagree <input type="checkbox"/>	Disagree <input type="checkbox"/>
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If you do not agree, please explain why

NSPCC doesn't disagree with the proposed content of the annual plan, but feels it should be strengthened as follows:

- **The guidance should clarify who the audience is for annual plans. Is it professionals, elected representatives or the general public, or all of these? The annual plan should clarify what the purpose of the Safeguarding Board is in the local area.**
- **The outcomes that Safeguarding Boards wish to achieve should be clearly linked to wellbeing outcomes and the National Outcomes Framework. This would help to build a picture of how Safeguarding Boards are contributing to improving the wellbeing of people at risk of abuse and neglect.**
- **Instead of just stating “*which improvement the Safeguarding Board proposes to make to enable it better to fulfil its objectives*”, the annual plan should contain details of priority issues that the Board will address and how the SCB is going to ensure that each member organisation discharges its safeguarding responsibilities effectively. This should be clearly linked to the population needs assessments carried out by Local Authorities under Section 14 of the Act.**
- **Paragraph (e) on collaboration should clarify how this is adding value to the work to the Safeguarding Board, and enabling it to better fulfil its objectives of protecting and preventing.**
- **Paragraph (f) on participation should clarify that Safeguarding Boards should undertake a scoping exercise of what service user participation is for and what it will seek to achieve. In the case of children, participation should be rooted in the**

principles of the UNCRC.

**9. To what extent do you agree with the proposed content of the annual report set out in Schedule 3 to The Safeguarding Boards (General) Regulations?**

Agree  Tend to agree  Tend to disagree  Disagree

If you do not agree, please explain why

NSPCC Cymru/Wales does not have any objections to the proposed content of annual reports but feels they should be strengthened as follows:

- **They should contain details of how the work of the Safeguarding Board has contributed to meeting wellbeing outcomes for people at risk of abuse and neglect.**
- **They should contain details of how local agencies have been held to account in discharging their safeguarding responsibilities.**
- **They should contain details of how the work of the Safeguarding Board has contributed to implementing a rights based approach to safeguarding and protecting children and young people at local level.**

In our view, the main issue in relation to annual plan and report is that of **accountability and scrutiny**. While it is clear that the National Independent Safeguarding Board will be receiving copies of annual reports, the guidance states very strongly that Safeguarding Boards are not accountable to NISB, but rather that they are working in partnership. However, we also note that *“where a theme of concern is identified, or a Safeguarding Board fails to address a theme of concern, then the National Board could recommend to the Minister that the matter should be escalated to Welsh Government for exploration or to the relevant inspectorate depending on the nature of the concern” (16.20).*

Just as the mechanism to hold local agencies to account lacks strength, **we feel that there is no real potential for Safeguarding Boards to be held accountable for the effective delivery of their objectives.**

The relationship between NISB and the inspectorates also needs to be further clarified. For example, **we would want the guidance to state much more clearly which concerns are to be referred to the Minister, and which ones are to be referred to the relevant inspectorate.** It should not be up to NISB to interpret the level of risk.

**10. To what extent do you agree that financial contributions should be prescribed for**

**each Safeguarding Board partner?**

**Agree**     Tend to agree     Tend to disagree     Disagree

We agree that financial contributions should be prescribed for each Safeguarding Board partner and very much welcome the fact that a funding formula has been set for Safeguarding Boards. This is something we have been consistently calling for, as we felt that in the main Local Authorities tended to be the main contributor to Safeguarding Board budgets.

However, we are concerned that there is no indication in the guidance about **what as a minimum is needed to support an effective Board** and how to set an appropriate overall budget. We welcome the percentages which have been set for each partner, but recommend that a minimum amount of personnel and financial support is prescribed. If this is not included, we are concerned that Board effectiveness could be affected.

Based on our work with LSCBs in England and Wales and Child Protection Panels in Northern Ireland, we would recommend that each SCB needs as a minimum a Business Manager, a Training Manager, administration support and funding for training, events and Child Practice Reviews. These requirements could be a part of the performance framework for SCBs.

**11. To what extent do you agree that the proposals for securing financial contributions to the Safeguarding Board set out fair and equitable arrangements?**

**Agree**     Tend to agree     Tend to disagree     Disagree

We feel that the proportions set out in Regulation 8 are fair and equitable. As mentioned above we feel that there should be a minimum resource set for each Board.

However, we would wish to know whether the money necessary to contribute to the Safeguarding Boards budget will be ring fenced by each partner, and what would happen in the event that one partner is unwilling or is not able to meet the agreed percentage.

Paragraph 15.9 of the guidance states that “the setting of budgets and their review will therefore be transparent and open to scrutiny.” Without a formal line of accountability between NISB and the Safeguarding Boards, we remain unsure of how this effective scrutiny and challenge will be achieved.

## **12. What are the key priorities for the first year of the National Independent Safeguarding Board?**

**We believe that monitoring how children's rights in term of safeguarding and protection as outlined in the UNCRC are being realised in Wales should form a core component of the work of the National Independent Safeguarding Board.**

We are of the view that the key priority for NISB should be to review the work which has been carried out to date on the All Wales Child Protection Procedures. This means reflecting on the role of having a unified set of procedures for safeguarding and how they can drive improvement in practice.

The following issues should be considered:

- Governance
- Capacity and resources
- Membership
- Opportunities for integrated work between adults and children
- Tasks and priorities
- Learning and best practice, emerging for example from the Welsh Neglect Project (work on neglect protocols and neglect assessment tools).

We believe that getting the work on procedures right underpins the safeguarding structures and should therefore come before thematic work on different types of abuse.

## **13. How can arrangements for reviewing national safeguarding policy and procedures be taken forward under the responsibilities of the National Independent Safeguarding Board and the Safeguarding Boards?**

See response to question 12.

Given NISB's remit to "*report on the adequacy and effectiveness of arrangements to safeguarding children and adults in Wales*", and its role as an advisory Board, we are of the view that it would be appropriate for it to support the work of the current All Wales Child Protection Procedures Review Group on behalf of Safeguarding Boards.

We suggest that Safeguarding Boards make a financial contribution to the work of the AWCPRG based on an equal divide between SCB areas. The total budget would be based on the following costs:

- Administrative support
- Chair and participant expenses
- Translation costs

- Web hosting and support
- Development costs (i.e. app based procedures)

## Other

**The Welsh Government is interested in understanding whether the proposals in this consultation document regarding Part 7: safeguarding will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation.**

**14. Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?**

**15. Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?**

**16. Re-balancing the care and support system to deliver the new legal framework will require reprioritisation of resources. What are the key actions that need to be taken to achieve this?**

**17. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them.**

**Relevant partners:**

We have noticed a gap in the definition of “relevant partners” outlined in paragraph 2.2 of the Code of Practice. Section 162 (4) of the Act lists relevant partners and states that a relevant partner can be “such a person or a person of such description as Regulations may specify”. We note no other persons are currently proposed to be prescribed.

This in our view creates an issue in relation to the duty to report children at risk. From the work we are currently doing with sport Governing Bodies in Wales through our Child Protection in Sport unit, we know that Governing Bodies struggle with reporting concerns. **We therefore feel that National Sport Governing Bodies and leisure providers should be clearly listed as relevant partners who have a duty to report children at risk under Section 130 of the Act.**

## **NISB**

We are **disappointed that the remit of NISB is to be confined to that of an advisory Board**. In our original response to the Social Services Bill consultation, we felt that the Chair of the National Board should be accountable to the Minister with responsibility for social services and that the regional Safeguarding and Protection Boards should be accountable to the National Board and the Chairs of these Boards should sit on the National Board in an advisory capacity. However the Board should not be too large and unwieldy and so if it is decided to establish a joint Board for adults and children. We also recommended that two separate sub committees are established for adults and children.

**Without a clear line of accountability between NISB and the Safeguarding Boards at local level, it is difficult to see how they will be scrutinised, challenged, and how improvement to safeguarding arrangements will be driven across Wales. The key question which the guidance in its current form does not in our view answer, is how will the new arrangements help address the failings of individual agencies in cases like Pembrokeshire and Pallial?**

The guidance should also address the relationship between NISB and non devolved agencies. We feel that there should be a mechanism for NISB to make recommendations on the way non devolved agencies, such as the police, have discharged their safeguarding duties. This should include a dialogue with the UK Government through the Secretary of State for Wales.

In addition, we would welcome clarification of how NISB and CSSIW will interact with one another, and add value to one another’s work. Would NISB be able to commission CSSIW to undertake certain thematic reviews based on issues which have come to its attention?

<b>Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please enter YES in the box.</b>	
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