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## Consultation – Summary Report

# Regulations and statutory guidance in relation to Part 7 of the Social Services and Well-being (Wales) Act 2014

Date of issue: June 2015

# **Regulations and statutory guidance in relation to Part 7 of the Social Services and Well-being (Wales) Act 2014 - Consultation Summary**

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## **Section 1**

### **Introduction**

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

From the outset, the Welsh Government made a commitment to working with people to help shape the secondary legislation and the implementation, and deliver the practice and culture change being driven forward through the Act. This commitment underpinned a comprehensive engagement and consultation process. The Safeguarding Advisory Panel was established in July 2013 to provide expert advice to the Welsh Government on strengthening safeguarding arrangements for adults and children in Wales. It has played a major role in helping to develop the policy instructions, regulations and statutory guidance required to give effect to Part 7 of the Act.

The Safeguarding Advisory Panel initially used task and finish groups in September 2013 to consider the content of Part 7 of the Social Services and Well-being (Wales) Bill with a specific focus on key aspects of the safeguarding arrangements.

These task and finish groups were complemented by individual meetings with key stakeholders from the statutory, third and independent sector, for example Care Forum Wales and the Welsh Independent Healthcare Association. A National Conference was held with stakeholders in November 2013 to reflect the emerging views. In addition to meeting with professionals, Panel members attended meetings being held by Junior Safeguarding Boards, the People First organisation and older people.

The Panel’s engagement activities continued until the summer of 2014. During this period the Panel continued to liaise with stakeholders raising awareness of implementation of the Act and its significance and sought more specific views on the detail required for inclusion in Regulations and Statutory Guidance making use of specific focus groups. Panel members took the opportunity to increase awareness of the Act, including how the adult protection legislation would work and how safeguarding arrangements could be strengthened.

A consultation was held on the proposals for regulations and statutory guidance in relation to Part 7 of the Act, on safeguarding. The consultation period ran from 6 November 2014 to 2 February 2015.

As well as formal consultation, using various formats, officials gave presentations to groups, held discussions, attended one to one meetings, encouraged people to invite them to their existing meetings, and wrote articles and gave them to our partners to use within their networks. Stakeholders were asked to share information with their networks and feed back to the Welsh Government.

The National Social Services Citizen Panel was asked to consider the consultation as individuals within their own networks, but also together as a Panel, where they produced reports to inform the consultation on integration, safeguarding, direct payments and paying for care.

As well as key contacts being encouraged to disseminate the consultation documents amongst their networks, to support wider engagement, Easy Read and children and young-people friendly versions were also produced and disseminated.

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

- Chairs of Safeguarding Boards in Wales
- Welsh Local Government Association
- The Children's Commissioner for Wales
- The Older People's Commissioner for Wales
- Social Services Improvement Agency
- Local Government representatives
- Third Sector organisations
- Local Authorities
- Care Council for Wales
- Association of Directors for Social Services Cymru
- Care and Social Service Inspectorate Wales
- Wales Council for Voluntary Action
- Children in Wales
- Care Forum Wales

## **Consultation Events**

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

- promote engagement with the consultation;

- provide a base level of understanding to key stakeholder groups of the areas we were consulting on.

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

The first event was held on 26 November in the Liberty Stadium, Swansea. The second was held on 9 December in Venue Cymru, Llandudno.

Overall the uptake of spaces for the events was positive with capacity reached at both. There were approximately 170 attendees at the event in South Wales and 90 attendees in the North Wales. The range of stakeholders included representation from:

- Age Alliance Wales
- British Deaf Association
- Cardiff Metropolitan University
- Care Council for Wales
- Carers Trust Wales
- Cartrefi Cymru
- Children in Wales
- College of Occupational Therapists
- CSSIW
- Disability Wales
- Estyn Llaw
- G4S Custodial & Detention Service
- Hafal
- Headway
- HMP Swansea
- Learning Disability Wales
- Local Authorities
- Local Health Boards
- Ministry of Justice
- Welsh Ambulance Service
- WLGA
- Youth Justice Board Cymru
- Wales Community Rehabilitation Company
- Wales Alliance for Citizen Directed Support
- UK Home Care Association
- South Wales Police
- Shine Cymru
- Safeguarding Advisory Panel
- RNIB Cymru
- The Rowan Organisation
- Public Health Wales
- Office of the Older People's Commissioner
- North Wales Social Services Improvement Collaborative
- North Wales Police
- NOMS in Wales
- National Probation Service Wales

Workshops were held at the events on each of the Parts of the Act subject to consultation under Tranche 1. The content of these workshops was tailored to suit the subject matter, but at the core of each was a presentation from officials and group discussions and activities.

The comments and outputs from these events were considered alongside the formal written responses in order to inform the final regulations, code(s) of practice and, in respect of Part 7, statutory guidance

In total 77 responses were received. Some responses received were purely narrative and therefore do not appear in the summary of tick box responses. All have been considered equally in terms of comments received. A list of respondents is attached at Annex A. A summary of consultation responses together with the Welsh Government's analysis can be found in Section 2.

## **Background**

The Welsh Ministers have made it clear that they wish the core elements of the new statutory framework to be in place for April 2016, when the Act will be implemented.

The statutory framework will consist of three main elements, the Act itself, regulations made under the Act, and codes of practice/statutory guidance. These three elements work together to form the framework within which social services will operate from April 2016.

The consultation on and laying of the regulations to be made under the Act is being undertaken principally in two tranches. This consultation formed part of the first tranche. The intention is to lay these regulations before the Assembly from May 2015 to give the health and social care sector the maximum amount of time to adjust to the new requirements ahead of implementation in April 2016.

## **The evidence for change**

Social services are at the heart of Welsh public life. They support 150,000 young, old and disabled people every year to achieve their potential and help make them safe. Many of these services are delivered in partnership with others, including housing, health and education services. Society is changing and social services must change in response. There have been, and will continue to be, shifts in the public's expectations of social services, as a result of demographic change and changes in our society. Social services need to alter and to respond to all of these.

Furthermore, demand is rising across social services, yet the financial outlook for all public services is difficult. Whilst we have protected social services expenditure, we need to make a more fundamental change than just pursuing the obvious efficiency measures if we are to make social services sustainable.

Our White Paper *Sustainable Social Services for Wales: A Framework for Action* sets out a programme of change to meet these challenges based on the following nine principles:

- A strong voice and real control
- Supporting each other
- Safety
- Respect
- Recovery and restoration
- Adjusting to new circumstances
- Stability
- Simplicity
- Professionalism

These have been informed by discussion with stakeholders and debates in the National Assembly for Wales and elsewhere since *Sustainable Social Services for Wales* was published. They sit alongside the evidence of the Independent Commission on Social Services in Wales, the Law Commission review of adult social care legislation<sup>a</sup>, and our Review of Safeguarding<sup>b</sup>. All this forms the backbone of our case for change.

This evidence, and the process of considering it through the Assembly scrutiny process on the Bill, has informed and shaped the contents of the Act. The next stage, the development of the regulations and codes of practice or statutory guidance, has been informed by key strategic inputs such as *More than just words*, our Strategic Framework for Welsh Language Services in Health, Social Services and Social Care<sup>c</sup>, the *Enabling Wales* project which directly supports the delivery and implementation of the Welsh Government's *Framework for Action on Independent Living* and by evidence sourced through technical groups consisting of key stakeholders. These groups have looked at the Act's provisions, and the policy underpinning them, in detail, and provided advice to officials on how the regulations, statutory guidance and codes of practice should be framed in order to achieve the aims of the Act and, through this, the requirements of *Sustainable Social Services: A Framework for Action*. This process has secured a range of valuable input which Welsh Government officials have drawn upon to develop the draft regulations, statutory guidance and code of practice which were consulted upon.

## The proposals for consultation

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<sup>a</sup> <http://lawcommission.justice.gov.uk/areas/adult-social-care.htm>

<sup>b</sup> <http://wales.gov.uk/topics/health/publications/socialcare/reports/advisory/?lang=en>

<sup>c</sup> <http://wales.gov.uk/topics/health/publications/health/guidance/words/?lang=en>

We proposed the strengthening of arrangements for children at risk through the introduction of a mandatory duty to report children at risk or suspected to be at risk, and through the establishment of Safeguarding Children Boards on the public sector delivery regional footprint.

Part 7 also introduces new legislation to protect adults at risk. This new framework introduces a duty to report adults at risk to the local authority; a duty for the local authority to make enquires into whether an adult is at risk and to determine the action to be taken; and a new Adult Protection and Support Order through which an authorised officer can enter a premises to speak to an adult in private, determine if the adult is making decisions freely and determine the action to be taken. Part 7 also provides for new Safeguarding Adults Boards established on a parallel footprint to the Safeguarding Children Boards.

A National Independent Safeguarding Board is created to advise and support Safeguarding Boards and to make recommendations to Welsh Ministers to strengthen safeguarding in Wales. Whilst statutory guidance is not required in relation to the National Independent Safeguarding Board, we used the consultation to invite stakeholders to consider how the Safeguarding Boards could be supported by the National Independent Safeguarding Board to exercise their statutory functions.

## **Section 2 - Response to the Consultation Questions**

### **Welsh Government Analysis**

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

Some responses, however, did outline some particular areas for further consideration and these have been considered, both by the Welsh Government and the Safeguarding Advisory Panel.

These include the category of persons who may be authorised officers in relation to Adult Protection and Support Orders; some suggestion that the statutory guidance should provide greater clarification on the exercise of functions by Boards; some concern over the way in which multiple reviews or learning events following serious incidents can operate in parallel; and some concern about the involvement of the health sector in the process.

The Welsh Government welcomes these comments as they have provided evidence to inform refinement of the draft statutory guidance to provide clarification on a number of these points.

Given the widespread agreement to our proposals, in the main, no changes have been made to the draft regulations as a result of the consultation process, reflecting the prior involvement of stakeholders and practitioners. The draft statutory guidance has been refined as a result of comments received, and in particular, further discussion of these within the Safeguarding Advisory Panel.

As mentioned under Question 10 below the Welsh Government received strong representation from the UK Government, Police and Crime Commissioners, and one of the statutory Safeguarding Board partners not to prescribe the level of contribution in regulations.

The Welsh Ministers have reflected upon the powers available to them to secure the outcome of shared responsibility and accountability; fairness, consistency, transparency and simplicity to ensure Boards have adequate resources to fulfil their core functions. The Welsh Ministers have determined not to exercise their regulation making powers to prescribe the level of contributions at this point. Regulation 8 of the draft Safeguarding Boards (General) (Wales) Regulations 2015 as consulted upon will therefore be removed.

The Welsh Ministers intend to ask the National Independent Safeguarding Board to review the effectiveness of the statutory guidance in delivering their stated outcomes, after a suitable period of operation. On the basis of that evidence, including whether the level of contributions is appropriate, the

Welsh Ministers will consider the need to exercise their regulation making powers.

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

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

### Question 1:

	<b>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?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	29	12	6	1	15
<b>Summary</b>					
<p>There was majority agreement that roles should be undertaken by local authority officers who have appropriate skills and experience to determine issues of assessment and identifying potential abuse.</p> <p>The Office of Public Guardian requested that the Court of Protection Visitor be included in the Statutory Guidance as an example of a specified person who may accompany an authorised officer. Others, including the Healthcare Inspectorate Wales, commented that restricting the role to local authority officers would ensure a consistent and thorough approach is taken in relation to the application of Adult Protection and Support Orders.</p> <p>Some comments highlighted that the authorised officer role should be restricted to social workers or a regulated professional of the local authority.</p> <p>The Wales Sub-Committee of HM District Judges asked for detail regarding the operation of the APSO process in general. The Welsh Government is currently taking this work forward with colleagues within HMCTS.</p>					
<b>Welsh Government Response</b>					
<p>APSOs are intended to be used only in exceptional circumstances. The Welsh Government considers that extending the categories of persons</p>					

beyond local authority officers in the regulations would not be helpful at this stage. However, the statutory guidance will be amended to include a Court of Protection Visitor as a person who may be specified by the Order as somebody who may accompany an authorised officer. Extension of the category of persons who may be an authorised officer will be considered as part of a review of the provisions after a period of their operation.

In relation to restricting the role of authorised officer to social workers or regulated professionals, the regulations specify that the individual must have relevant experience and have undergone appropriate training. This is supplemented by a range of skills in the statutory guidance which have clear resonance with those of the qualified social worker.

## Question 2:

	<b>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?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	30	16	1	1	14

### Summary

Very strong support was expressed for the lead partners nominated for each Board area, as set out within the consultation document. The lead partner's role is to establish the Safeguarding Board. Once formally established, Safeguarding Board Partners exercise a shared responsibility to collectively and individually ensure the Board achieves its objectives. Neath Port Talbot Council for Voluntary Service expressed concerns with regard to how regionalisation and government reorganisation would impact on Safeguarding, if this does not follow the Health Board footprint.

### Welsh Government Response

Safeguarding Boards have already established themselves on the public service delivery footprint well ahead of formal implementation. The Collaborative Footprint for Public Services in Wales was agreed by Cabinet in July 2011. The footprint is considered to provide a framework within which public services can develop consistent approaches to new collaborative working arrangements; clarity on how public services should collaborate; greater stability and reduced complexity.

The Collaborative Footprint is the Welsh Government's response to the need for leadership on this aspect of public service delivery. It also reflects the principles and ethos which were stated in the Wales Spatial Plan, focusing upon people, places and futures. Previous dialogue with delivery partners across sectors in Wales highlighted the complexities of service delivery where

there were different 'footprints' for different policy areas and organisations. The footprint does not require the removal of existing collaborative arrangements which are proving effective. There is a shared expectation that future collaborative working will be aligned to this footprint.

We will progress this aspect of the regulations and guidance as drafted.

### Question 3:

	<b>3. To what extent do you agree that the functions of a Safeguarding Board are aligned to their principal priorities?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	33	13	0	1	16

#### Summary

There was very strong agreement that the functions as set out in the consultation were helpful and appropriate. Some respondents, including Cwm Taf Safeguarding Children Board, highlighted the importance of reinforcing both the protect and prevent agendas. One comment, arising from a consultation discussion with the Wales Adult Protection Coordinators Group (WAPCG) suggested that guidance needs to close the gap between the overall purpose of the Safeguarding Board, which is high level and with limited detail on prevention, and the functions.

#### Welsh Government Response

Statutory guidance will make clear that the focus for Safeguarding Boards is twofold. It is both the protection of children and adults who are in need of care and support from abuse, neglect or other kinds of harm and the prevention of children and adults from becoming at risk of abuse, neglect or other kinds of harm. These two objectives should inform the priorities of Safeguarding Boards when they are considering their work programmes and annual plans, and reviewing their performance.

Guidance will provide further detail on the exercise of functions by safeguarding boards, including contributing to the review and development of policies and procedures; raising awareness of abuse, neglect and harm; reviewing the effectiveness of local safeguarding measures; undertaking child and adult practice reviews and other audits, reviews and investigations, and monitoring their recommendations; reviewing the performance of the Board; disseminating information about best practice and learning; research into protection and prevention of harm; reviewing training needs and ensuring provision of training; co-operating with other Boards and seeking specialist advice and information.

#### Question 4:

	<b>4. To what extent do you agree with the criteria for undertaking a concise and extended Adult Practice Review?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	34	9	1	1	17
<b>Summary</b>					
<p>Very strong agreement was expressed to Adult Practice Reviews being put on a statutory footing, and for the safeguarding boards having discretion to use appropriate format to learn from incidents/events where cases do not meet prescribed criteria.</p> <p>Mick Collins Consultancy questioned the need for a two-tier system of reviews (concise and extended), and there was a request for clarity as to which review should take precedence where multiple reviews and investigations take place.</p>					
<b>Welsh Government response</b>					
<p>The Adult Practice Review process builds upon the Child Practice Review process which has operated since Spring 2013 and has been subject to independent formal evaluation. The Welsh Government will continue to ensure the strongest possible clarity where different legislative duties impact on the exercise of agencies' functions to investigate and secure learning from incidences of death or serious impairment to individuals' development.</p>					

#### Question 5:

	<b>5. To what extent do you agree that the guidance is clear about the responsibilities of Safeguarding Boards to ensure appropriate membership?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	28	12	9	0	13
<b>Summary</b>					
<p>There was strong agreement to the proposed arrangements in respect of membership of safeguarding boards. A question was raised over the potential</p>					

membership role of regulatory bodies and whether they would be more suitable at lower operational level. Some concern was expressed about the role of Welsh Ambulance Service NHS Trust (WAST) and Public Health Wales as potential board members without making a financial contribution.

The membership role for Third Sector organisations was welcomed, as was the proposed board membership which was considered to be at an appropriate level to be able to influence change.

### Welsh Government Response

The level of the membership from each of the statutory Safeguarding Partners builds on the effective practices of statutory Local Safeguarding Boards and non-statutory Adult Safeguarding Boards. A key role that they will undertake will be to review and report on the effectiveness of the Board in delivering its identified priorities.

The Act and the Statutory Guidance clearly recognise and reflect the need for Safeguarding Boards to include representation from those who exercise functions or are engaged in activities relating to children and adults. We will refine the guidance to include more explicit references to organisations and bodies in Wales who undertake such functions.

The Boards are established and are already exercising their functions ahead of implementation. There are no reports of concerns about the effectiveness of each member. We will continue to keep this under review.

The National Independent Safeguarding Board, which will be established shortly, has a key role to play to provide advice and support to the safeguarding boards and to report on the effectiveness of safeguarding arrangements to Ministers.

### Question 6:

	<b>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 Board area?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	26	18	5	0	13
<b>Summary</b>					
There was strong agreement for the requirement for Boards to foster engagement through existing networks and forums, and engage with relevant organisations and individuals, through use of 'expert groups'. Concern was expressed by some, including the Office of the Public Guardian, that the					

guidance could be more explicit in suggesting other bodies which might be included as Board members. The Royal College of Nursing felt that the consultation process could have done more to engage with health organisations and health professionals and as a result expressed concern as to whether safeguarding boards will take the necessary steps to adequately engage with these partners.

One respondent queried whether local issues would receive sufficient consideration where there were large board areas with multiple local authorities.

**Welsh Government response**

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

Local Health Boards and NHS Trusts are specified on the face of the Act as a Safeguarding Board Member. As such they have an individual and collective responsibility to ensure the effectiveness of the Safeguarding Board and to identify and report on their priorities through the annual planning and reporting cycle. This will require the engagement and participation of a wide range of professionals and organisations, for example through sub-groups or working groups established by the Safeguarding Board.

**Question 7:**

	<b>7. To what extent do you agree that the regulations and guidance enable effective participation of users in the work of Safeguarding Boards?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	19	20	6	1	15

**Summary**

Broad agreement was expressed to the proposals. Some respondents, including the Learning Disability Advisory Group, commented that Boards may need support to make effective participation happen.

**Welsh Government response**

The Act and the Guidance clearly recognises the need to include representation from those who exercise functions or are engaged in activities

relating to children and adults in the Board's area.

The Guidance requires that Boards must consider at each meeting the opportunity for user engagement in specific pieces of work and also the effectiveness of the participation that has taken place.

Guidance highlights a range of user engagement and participation opportunities including the role of junior safeguarding boards, engagement champions and young people's champions in facilitating dialogue between Boards and individuals. It has been further strengthened to highlight the role of youth forums and schools councils and the special consideration required for those with disabilities or other specific vulnerabilities.

The National Board will have a role in reporting on whether participation and user voice is effective.

### Question 8:

	8. To what extent do you agree with the proposed content of the annual plan?				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	28	14	5	1	15

#### Summary

There was strong agreement to the proposals. Of those who disagreed or tended to disagree, no overall theme emerges. The Office of the Public Guardian suggested that annual plans should contain specific details in relation to partners and organisations who will be collaborated with, and that the annual plan should outline reporting mechanisms for outcomes of cases. Torfaen Social Care and Housing, while agreeing to the proposal and welcoming the inclusion of accountability, participation and engagement of service users, queried whether the annual plan and annual report could be combined into a single document.

#### Welsh Government Response

The requirement to produce an annual plan and annual report is set out within the Social Services and Well-being (Wales) Act 2014. It is not intended that the formulation of the annual report will place undue burden upon the Safeguarding Board. The length of the annual plans and annual reports is not prescribed.

The Annual Report must include information on how the Safeguarding Board has collaborated with other persons or bodies engaged in activities relating to

the board's objectives.

### Question 9:

	<b>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?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	24	16	5	1	15

#### Summary

Broad agreement to the proposals was expressed. The accountability and participation provided for was warmly welcomed. Of those who disagreed or tended to disagree, no overall theme emerged. Torfaen Social Care and Housing, while agreeing to the proposal and welcoming the inclusion of accountability, participation and engagement of service users, queried whether the annual plan and annual report could be combined into a single document.

#### Welsh Government response

The requirement to produce an annual plan and annual report is set out within the Social Services and Well-being (Wales) Act 2014. The Act and the Guidance clearly recognise the need to include representation from those who exercise functions or are engaged in activities relating to children and adults in the Board's area and this is reflected in the proposed content of annual reports.

### Question 10:

	<b>10. To what extent do you agree that financial contributions should be prescribed for each Safeguarding Board partner?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	27	14	0	2	19

#### Summary

There was strong agreement for the certainty and equity which would be provided. Cwm Taf Safeguarding Board suggested that all six statutory partners should make an equal contribution to the budget, and questioned, in the event of disagreement, who would arbitrate and enforce compliance.

Chief Constables, while agreeing with the principle that the police should be

members of Safeguarding Boards and should contribute financially to their running; and agreeing that the formula set out in the draft Regulations provided a fair balance of contributions amongst the partners, felt that it was inappropriate to stipulate the formula in the Regulations.

**Welsh Government Response**

Our proposals to utilise both the regulations and Statutory Guidance to specify the level of financial contribution by each Safeguarding Board partner received strong agreement.

The Welsh Government received representation from the UK Government, Police and Crime Commissioners, and one of the statutory Safeguarding Board partners not to prescribe the level of contribution in regulations.

The Welsh Ministers have reflected upon the powers available to them to secure their stated outcomes of shared responsibility and accountability; fairness, consistency, transparency and simplicity to ensure Boards have adequate resources to fulfil their core functions. The Welsh Ministers have determined not to exercise their regulation making powers to prescribe the level of contributions at this point. Regulation 8 of the draft Safeguarding Boards (General) (Wales) Regulations 2015, as consulted upon, will therefore be removed.

The Welsh Ministers intend to ask the National Independent Safeguarding Board to review the effectiveness of the Statutory Guidance in delivering their stated outcomes, after a suitable period of operation. On the basis of that evidence, including whether the levels of contribution are appropriate, Welsh Ministers will consider the need to exercise their regulation making powers.

**Question 11:**

	<b>11. To what extent do you agree that the proposals for securing financial contributions to the Safeguarding Board set out fair and equitable arrangements?</b>				
	Agree	Tend to agree	Tend to disagree	Disagree	Not ticked
<b>Total -</b>	15	20	6	1	20

**Summary**

Strong agreement was expressed that the proposed arrangements are fair and equitable. Cwm Taf Safeguarding Board suggested that all six statutory partners should make an equal contribution to the budget, and questioned, in the event of disagreement, who would arbitrate and enforce compliance.

**Welsh Government Response**

Our proposals to utilise both the regulations and Statutory Guidance to specify the level of financial contribution by each Safeguarding Board partner received strong agreement.

The Welsh Government received representation from the UK Government, Police and Crime Commissioners, and one of the statutory Safeguarding Board partners not to prescribe the level of contribution in regulations.

The Welsh Ministers have reflected upon the powers available to them to secure their stated outcomes of shared responsibility and accountability; fairness, consistency, transparency and simplicity to ensure Boards have adequate resources to fulfil their core functions. The Welsh Ministers have determined not to exercise their regulation making powers to prescribe the level of contributions at this point. Regulation 8 of the draft Safeguarding Boards (General) (Wales) Regulations 2015 will therefore be removed.

The Welsh Ministers intend to ask the National Independent Safeguarding Board to review the effectiveness of the Statutory Guidance in delivering their stated outcomes, after a suitable period of operation. On the basis that evidence, including whether the levels of contribution are appropriate, the Welsh Ministers will consider the need to exercise their regulation making powers.

## Question 12:

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

#### Summary

Suggestions were received around a number of themes. These included (in order of popularity):

- To ensure all regional Boards are in place and to have set clear performance indicators to measure their effectiveness (6)
- Establish good working relationships and lines of communication with all regional Boards (3)
- A communication strategy/dissemination of any lessons learned from reviews etc. which are of significance across Wales (3)
- Identifying if it is realistic to have one National Independent Safeguarding Board (NISB) spanning adult and children's safeguarding (1)
- Identifying the extensive workload (backlog) to be addressed in adult safeguarding and setting out priorities (1)
- In the light of the above, determining if the size and composition of the NISB are commensurate with the tasks (1)
- Performance data, storage of information regarding alleged perpetrators (1)
- Consideration of annual reports to inform good practice (1)
- To co-ordinate responses to any high level safeguarding concerns which have implications for Boards across Wales e.g. the Rotherham multi agency independent inquiry into CSE (1).
- Provide advice and support to ensure Adult and Children Boards work jointly and efficiently where appropriate (1)
- To develop a clear strategic plan setting out its functions, membership and support for the collaboration agenda (1)
- How citizens can be engaged, and feedback their experiences of the safeguarding process (1)
- Devise a quality assurance framework (1)

- A media strategy to raise awareness with adults about protecting themselves and what they should do if they believe they have been abused or neglected (1)

### **Welsh Government Response**

The Welsh Government welcomes these comments and these themes will be considered by officials with a view to informing the newly established National Board's remit.

### **Question 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?**

#### **Summary**

Some respondents, including the Wales Adult Protection Co-ordinators Group, suggested that the task of devising and reviewing the adult protection procedures should remain with Safeguarding Boards and practitioners who implement them. Others, including Torfaen Housing and Social Care, suggested that the National Board should review the safeguarding policy and procedure and disseminate findings to Safeguarding Boards. It was noted that communication between Boards is essential and that a link coordinator could be appointed to achieve this. The Youth Justice Board suggested that the National Board should have a key role in advising on policy and procedures and should also act as a scrutiny or challenge group for new policy and procedures.

Mick Collins consultancy suggested that the model used for the drafting of the current Adult Protection Policy and Procedures was effective and should be used again with funding being made available to buy in secretarial support and expertise where necessary.

It was also suggested by Hywel Dda University Health Board that there needs to be effective leadership in co-ordinating the review of both child and adult safeguarding policies; that ensuring appropriate strategic and operational representation from all agencies from all regions will be integral to full engagement and ownership; that each agency must commit the appropriate resource to lead revision of these documents, and that the contribution of health cannot be overestimated and must be reflected in final documents.

### **Welsh Government Response**

The National Board, once established, will have a primary role in providing advice and support to Safeguarding Boards and for making recommendations to the Welsh Ministers. The consultation responses provide clear and

unequivocal support for the benefits of national procedures. The Board is also likely to have a role to play both in reviewing the application and effectiveness of the procedures and in informing future revisions.

#### **Question 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?**

##### **Summary**

Most respondents expressed the belief that the proposals would have a positive impact on groups with protected characteristics. Hywel Dda University Health Board commented that the principles of the UNCRC must be applied. The Royal College of Nursing agreed that the proposals, if effectively implemented, will have a positive impact as they are explicitly intended to protect the most vulnerable. However, they did highlight the importance of designing services that can meet need through the Welsh language.

##### **Welsh Government Response**

Under the terms of the Welsh Government's Welsh Language Scheme an assessment of the impacts of the Social Services and Well-being (Wales) Act 2014 was conducted during the Bill process. At the time the assessment identified that negative impacts on the Welsh Language were considered unlikely and that the Act was designed to create a fairer and more equitable system for people eligible for care and support. The Welsh Language (Wales) Measure 2011 takes forward much of the content of the Welsh Language Act 1993 and it is this legislation which provides the overarching legal framework for the Welsh language in public services: all people and organisations involved in the delivery of social services and social care must have regard to the right of people to communicate in Welsh and will be required to comply with future Welsh Language Standards.

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

All provisions of the regulations relating to children are intended to improve outcomes referred to in the relevant articles of UNCRC. These are:

Article 3 - All organisations concerned with children should work towards what is best for each child

Article 4 - Governments should make these rights available to children

Article 6 - All children have the right of life. Governments should ensure that

children survive and develop healthily  
Article 12 - 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.  
Article 19 - Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.  
Article 34 - The Government should protect children from sexual abuse  
Article 39 - Children who have been neglected or abused should receive special help to restore their self respect

### **Question 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?**

#### **Summary**

As under question 14, the Royal College of Nursing while suggesting that the proposals will have a positive impact, wished to highlight the importance of designing services that can meet need through the Welsh language.

#### **Welsh Government Response**

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

### **Question 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?**

#### **Summary**

Cwm Taf Safeguarding Children Board suggested that the Care Council for Wales competency framework would assist the process of training for professionals. Torfaen Social Care and Housing responded that key actions would be closer and more effective relationships with the Third Sector, improving prevention services by identifying additional funding, increased focus on building community resilience, greater emphasis on multi-agency responsibility to safeguard, and a need to understand how safeguarding for children and adults can work together.

Abertawe Bro Morgannwg University Health Board suggested that organisations need to have clear plans outlining their requirements to ensure that priorities are met.

### **Welsh Government Response**

Additional resources are being targeted at implementation. The delivering Transformation Grant will support local authorities and their partners over the next year in shifting practice etc. and the Social Care Workforce Development Programme Grant will be targeted at training for the implementation of the Act. It is expected that the overall reduction in the number of safeguarding boards, and the requirements placed on safeguarding boards by the Safeguarding Boards (Functions and Procedures) (Wales) Regulations will provide a consistent and coherent framework for Safeguarding Children Boards and Safeguarding Adults Boards as to how they must fulfil their objectives under the Act to protect children and adults at risk from abuse and neglect, and facilitate co-operation between safeguarding boards, and between safeguarding boards and the National Board

## Question 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.**

### **Summary**

The Learning Disability Advisory Group suggested that there must be protection for 'whistleblowers' to ensure that people report any suspicions in respect of safeguarding and that there should be a focus on sharing and learning from both good practice and cases where things went wrong. Torfaen Social Care and Housing suggested that human rights legislation would need to be properly referenced within the Guidance to ensure that adults with capacity retain the right to make unwise decisions.

Abertawe Bro Morgannwg University Health Board regarded as very positive that legislation is being put in place to provide protection for vulnerable adults.

The Older People's Commissioner for Wales welcomed the introduction of Adult Protection and Support Orders, but expressed some concern that the power to remove a person to a place of safety, contained in section 47 of the National Assistance Act 1948 was to be repealed, suggesting that this had the potential to put older people at risk.

### **Welsh Government Response**

Statutory Guidance will make clear that the purpose of Adult Practice Reviews and Child Practice Reviews is to share learning points and good practice. The creation of Safeguarding Boards on the public service delivery footprint and of the National Independent Safeguarding Board will facilitate the sharing of such learning. The Statutory Guidance will draw the attention of practitioners to the duty on public authorities under section 6 of the Human Rights Act 1998 not to act in a way that is incompatible with rights under the European Convention of Human Rights.

Section 6 of the Social Services and Well-being (Wales) Act 2014 places an over-arching duty on those exercising functions to ascertain and have regard to the individual's views, wishes and feelings; to the importance of promoting and respecting the dignity of the individual; and to the importance of beginning with the presumption that the adult is best placed to judge the adult's well-being.

In respect of the repeal of section 47 of the National Assistance Act 1948 the Welsh Government considers that existing police powers under the Police and Criminal Evidence Act 1984 section 17(1)(e) 'to enter premises for the purposes of saving life and limb or preventing serious damage to property' and powers under the Domestic Violence, Crime and Victims Act 2004, the Fraud Act 2006, the Mental Capacity Act 2005 provide extensive and sufficient powers in this regard. This repeal is accomplished by the Act and is not within the scope of this consultation.



## . Annex A - List of respondents

No	Confidential		Name	Organisation/On behalf of
	Y	N		
1.		✓	Caroline Gardner	Office of the Public Guardian
2.		✓	Mick Collins	Mick Collins Consultancy
3.		✓	Rhys Jones	Welsh Government
4.		✓	Andrea Giordano	Welsh Government
5.		✓	Ruth Northway	Learning Disability Advisory Group (LDAG)
6.		✓	Helen Evans	Neath Port Talbot Council for Voluntary Service
7.		✓	Lisa Turnbull	Royal College of Nursing
8.		✓	Mel Roach	Cwm Taf Safeguarding Children Board
9.	✓			
10.		✓	Gareth Cooke	Torfaen Social Care and Housing
11.		✓	Catherine Roberts	Neath Port Talbot CBC
12.		✓	David Morgan	Abertawe Bro Morgannwg University Health Board (ABMU Health Board)
13.		✓	Carol Floris	Voices From Care
14.		✓	Caroline Oakley	Hwyel Dda University Health Board
15.	✓			
16.		✓	Dr Rosanne Palmer	Age Cymru
17.	✓			
18.	✓			
19.	✓			
20.	✓			
21.	✓			
22.	✓			
23.	✓			
24.		✓	Nigel Champ	Welsh Government
25.		✓	David Williams	Torfaen
26.	✓			
27.		✓	Parry Davies	Cyngor Sir Ceredigion
28.		✓	Liz Blazey	Mid and West Wales Safeguarding Children Board
29.		✓	Lin Slater	Aneurin Bevan University Health Board
30.		✓	Philip Diamond	Greater Gwent Health, Social Care and Well-Being Partnership
31.		✓	Debbie Powell	SOCIAL CARE IN PARTNERSHIP – SOUTH EAST (SCiPse)
32.		✓	Andy Senior	Cardiff and Vale of Glamorgan Local Safeguarding Children Board
33.		✓	Caroline Oakley	Hwyel Dda University Health Board
34.		✓	Aideen Naughton	Public Health Wales
35.		✓	Deborah Driffield	City & County of Swansea Social Services

36.	✓			
37.		✓	Ruth Crowder	College of Occupational Therapists
38.		✓	Simon Burch	South East Wales Safeguarding Children's Board
39.		✓	Louise Williams	Care Council for Wales
40.		✓	Ruth Coombs	Mind Cymru
41.		✓	Melanie Roach	Cwm Taf Safeguarding Children and Adult Boards.
42.		✓	Dr Sam Clutton,	Barnardo's Cymru
43.		✓	Neil Ayling	Flintshire County Council
44.		✓	Judith Brooks	Bridgend County Borough Council –Children's Services
45.		✓	Nicola Evans	Older People's Commissioner for Wales
46.		✓	Bethan Jones Edwards	North Wales Social Services Improvement Collaborative
47.		✓	Dusty Kennedy	Youth Justice Board
48.		✓	Phil Evans	Vale of Glamorgan Council
49.		✓	Jenny Williams	Conwy County Borough Council
50.		✓	Keith Towler	Children's Commissioner for Wales
51.		✓	Amy Meredith-Davies	Swansea Council for Voluntary Service
52.		✓	Alice Southern	Alzheimer's Society
53.		✓	Giovanni Isingrini	ADSS Cymru
54.		✓	Steve Thomas	WLGA
55.		✓	Deborah Davies	Torfaen
56.		✓	Mary Wimbury	Care Forum Wales
57.		✓	Cecile Gwilym	NSPCC Wales
58.		✓	Rodney Berman	BMA Cymru Wales
59.		✓	Tony Lobl	Christian Science Committee on Publication
60.		✓	C Phillips	CPhillipsassociates
61.		✓	Dr Edwin Jones	LDAG Subgroup
62.		✓	Martyn Palfreman	MID AND WEST WALES HEALTH AND SOCIAL CARE COLLABORATIVE
63.		✓	Gill Paul	Gwynedd Council
64.		✓	Robin Moulster	BASW Cymru
65.		✓	Ian Bottrill	Safeguarding Advisory Panel
66.		✓	Mair Kromei	Hywel Dda UHB
67.		✓	Liz Blazey	CYSUR
68.		✓	Sian Walker/Tony Young	City of Cardiff Council
69.		✓		National Citizen Panel for Social Services in Wales
70.		✓	Alun Thomas	Police Liaison Officer, o/b Chief Constables in Wales
71.		✓		Voices from Care
72.		✓	Roger Bishop	All Wales Children and Young Peoples Advocacy Providers Group
73.		✓	Marshall Phillips	Wales Sub -Committee of Association of HM District Judges

74.		✓	Bobby Bolt	Aneurin Bevan University Health Board
75.		✓	Sara Harvey	Western Bay Programme
76.		✓	Safeguarding Adv Panel	Consultation with Safeguarding Board Chairs
77.		✓	Anselm Benedict	Law Society
78.		✓		Older People's Commissioner for Wales