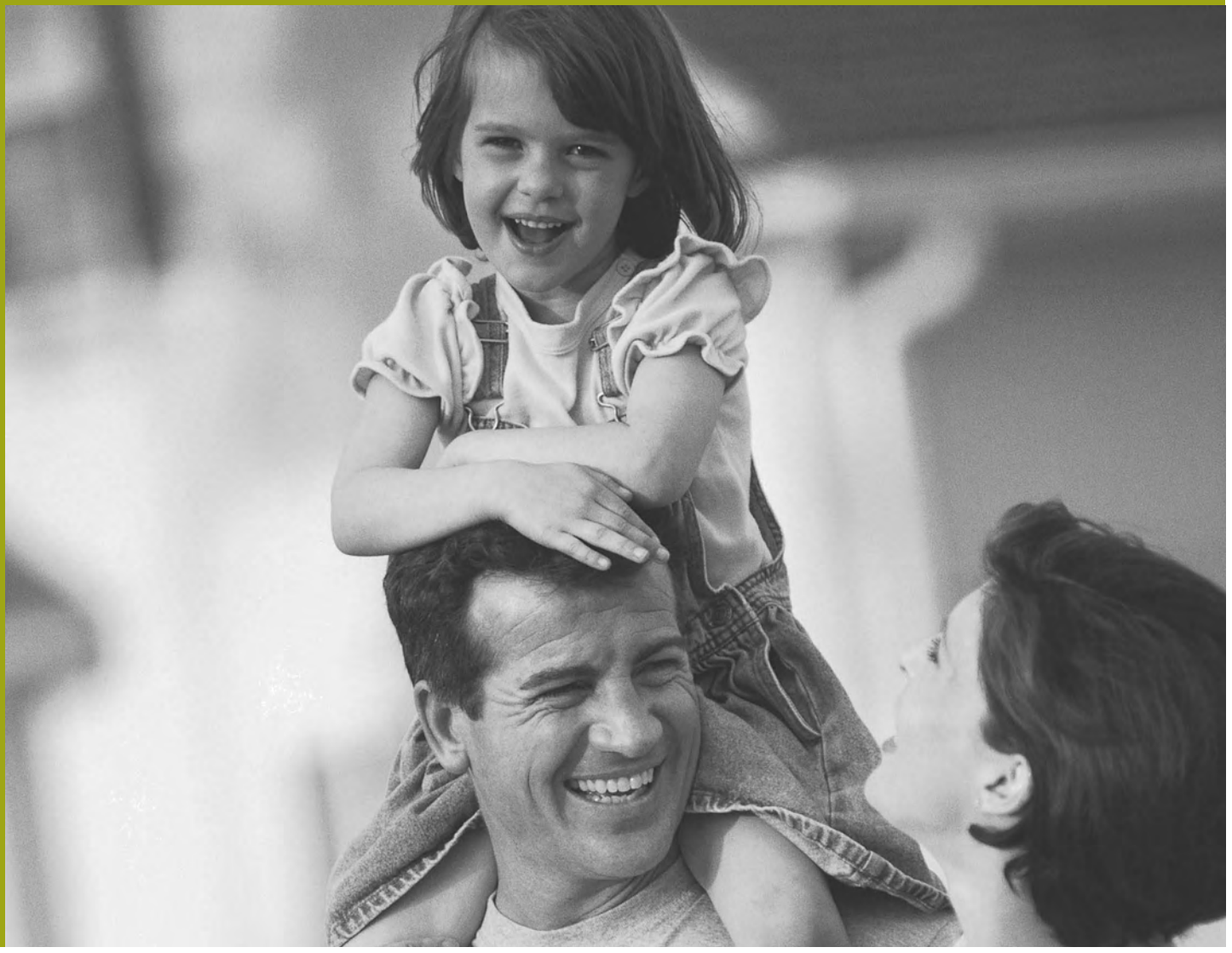
Yr Adran Plant, Addysg, Dysgu Gydol Oes a Sgiliau
Department for Children, Education, Lifelong Learning and Skills

Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Safeguarding Children in Education

The role of local authorities and governing bodies under the Education Act 2002



Guidance

Welsh Assembly Government Circular No: 005/2008
Date of issue: April 2008
Replaces Circular No: 52/1995

Safeguarding Children in Education

Audience

Local authorities, head teachers and governing bodies of maintained schools, head teachers and governing bodies of voluntary aided and foundation schools, church diocesan authorities, proprietors of independent schools, principals of further education institutions, school-staff unions, Governors Wales, Careers Wales, Higher Education Authorities and Local Safeguarding Children Board Chairs. It should also be read by staff within those organisations who have a lead responsibility for safeguarding children.

Overview

This document contains guidance for local authorities and governing bodies on arrangements for safeguarding children under section 175 of the Education Act 2002. The guidance replaces existing guidance circular 52/1995 *"Protecting Children from Abuse: the Role of the Education Service"*.

Action required

Employers should note the information contained in this guidance.

Further information

Enquiries about this document should be directed to:
Nicky Mills
Support for Learners Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ
Tel: 029 2082 3677
Fax: 029 2080 1044
Email: safeguarding.children@wales.gsi.gov.uk

Additional copies

Can be obtained from the above address or from the Assembly's website www.wales.gov.uk/educationandskills

Related documents

A full list is contained in Appendix G at the end of the document. However the main documents are as follows:

Circular No 34/02: Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service.

Circular No 39/06: Guidance for School Governing Bodies on Procedures for Complaints involving Pupils.

Circular No 12/07: Safeguarding Children: Working Together Under the Children Act 2004.

G/490/07-08
ISBN 978 0 7504 4505 4
April
CMK-22-07-261
Typeset in 12pt
© Crown copyright 2008

Contents

	Page
Summary	4
Section 1: Introduction and Legislative Framework	6
Key Definitions and Concepts	9
Section 2: A Shared Objective	12
Safeguarding and Promoting Welfare	13
Creating a Safe Learning Environment	16
Identifying and Responding to Concerns	16
Parent or Carer Involvement	19
Section 3: The Framework for Protecting Children from Neglect and Abuse	21
The Role of the Local Authority	21
• Strategic Responsibilities	23
• Support Responsibilities	24
• Operational Responsibilities	25
The Role of Governing Bodies of Maintained Schools	26
The Role of Governing Bodies of Further Education Institutions	29
The Role of Head teachers and Principals	31
The Role of Proprietors of Independent Schools	31
Boarding Schools	33
Community Focused Schools, Pre and Post-school Activities and Out of Hours Learning	34
Child Protection Training/Inter Agency Training	34
Additional advice on safeguarding	36

Safeguarding Children in Education

April 2008

Guidance Circular No: 05/2008

Section 4: Preventing Unsuitable People from Working with Children 38

Appointment of staff 38

Dealing with Allegations of Abuse Against Teachers and Non Teaching Staff in Maintained schools in Wales 39

Reporting Cases to the Welsh Assembly Government and the Role of the General Teaching Council for Wales (GTCW) 40

Information Sharing 41

Appendices

Appendix A: 42
Broad Areas of Responsibility for Local Authority Designated Lead Officers for Child Protection

Appendix B: 45
Broad Areas of Responsibility for Designated Senior Person for Child Protection

Appendix C: 47
Model Notes:
MN 1: Child Protection Policy for Schools
MN 2: Model Note for Staff
MN 3: Model Note for Parents/Carers
MN 4: Model Note for Pupils

Appendix D: 59
Safeguarding Children - Further Advice and Guidance
Abuse of Trust
Physical Contact with Pupils/Restraint
Educating Children about Issues as part of Personal and Social Education (PSE)
Children who go Missing from Education
Listening to Children
Confidentiality
Principles underpinning work to safeguard and promote the welfare of children
Safeguarding in Specific Circumstances

Appendix E: 71
Flowcharts
Flow Chart 1 - Referral
Flow Chart 2 - What happens following Initial Assessment
Flow Chart 3 - Urgent Action to Safeguard Children
Flow Chart 4 - What happens after the Strategy Discussion
Flow Chart 5 - What happens after the Child Protection Conference, including the Review Process?

Appendix F: 76
Information Sharing

Appendix G: 95
Relevant Legislation and Guidance

Summary

This document sets out the responsibilities of Welsh local authorities, governing bodies of all maintained schools (references to schools throughout the document also apply to pupil referral units) and 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. It deals with all children and young people up to the age of 18, but for ease of drafting refers to "children" rather than "children and young people". **It replaces** the existing guidance about the organisation of child protection arrangements in the education service that is contained in Welsh Office Circular 52/95: *"Protecting Children from Abuse: The Role of the Education Service"*.

This guidance is issued by the Welsh Ministers in exercise of the powers conferred on the National Assembly for Wales by section 175 of the Education Act 2002 and now vested in the Welsh Ministers in accordance with paragraph 30 of schedule 11 to the Government of Wales Act 2006.

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" (Safeguarding Children)*, published by the Welsh Assembly 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.

Safeguarding Children in Education

April 2008

Guidance Circular No: 05/2008

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.

The Appendices to the guidance contain information about issues relevant to child protection, and links to further and more detailed advice and guidance about those issues.

References in this guidance to a child, children, or children and young people, are references to people who are under 18 years of age.

This guidance does not apply to circumstances where a child protection allegation has been made against a member of staff and staff disciplinary proceedings are to take place. The procedures to be followed in such cases must be set out in the governing body's disciplinary procedures which in turn should have regard to Welsh Assembly Government guidance circular 45/2004 *"Staff Disciplinary Procedures in Schools".*

This guidance does not cover the requirements of the new Vetting and Barring scheme to be introduced under the Safeguarding Vulnerable Groups Act 2006. Guidance will be issued on the scheme in due course.

Section 1: Introduction and Legislative Framework

1.1 The Welsh Assembly Government is committed to the principles of the UN Convention on the Rights of the Child as the basis for its dealings with children and young people and has adopted Seven Core Aims through which it will work to ensure that all children and young people:

- have a flying start in life;
- have a comprehensive range of education and learning opportunities;
- enjoy the best possible health and are free from abuse, victimisation and exploitation;
- have access to play, leisure, sporting and cultural activities;
- are listened to, treated with respect, and have their race and cultural identity recognised;
- have a safe home and a community which supports physical and emotional wellbeing; and
- are not disadvantaged by poverty.

1.2 Section 25 of the Children Act 2004 requires that each local authority in Wales must make arrangements to promote co-operation between the authority, each of the authority's relevant partners and such other persons or body that the authority thinks is appropriate, to improve the well being of children and relevant young people in each local authority area. It enables specified partners to pool budgets and other resources in support of these arrangements. Welsh Assembly Government guidance *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.

1.3 The *Children and Young People's Plan (Wales) Regulations 2007* requires that each local authority, after consultation with partners, should publish a Children and Young People's Plan (CYPP), setting out how they will improve the well being of children and young people.

1.4 The CYPP is intended to be a 3 year strategic plan that will provide strategic vision, will state the agreed priorities that will

direct the work of all partners, set agreed joint targets and provide a basis for the joint commissioning of services. The CYPP is to be the defining statement of strategic planning intent and priorities for all children and young people's services in the area. In this respect it will act as the reference point for all other plans.

1.5 *The Children and Young People's Plan (Wales) Regulations 2007* came into force on 1 September 2007 and planning guidance *Shared Planning for Better Outcomes* was published on the Welsh Assembly Government website simultaneously. First plans, covering 2008-11 are required to be adopted by 31 July 2008 and published by 30 September 2008. Paragraph 1.25 of *Shared Planning for Better Outcomes* sets out the relationship between the Local Safeguarding Children Board (LSCB) and the Plan. The LSCB should both be represented on, and a consultee of the local Children and Young People's Partnership.

1.6 The guidance in this document forms part of the Welsh Assembly Government's broader framework for safeguarding and promoting the welfare of children. *"Safeguarding Children: Working Together Under the Children Act 2004"* published by the Welsh Assembly Government in March 2007 sets out the overarching system for safeguarding children and the roles that different agencies play. *"The Framework for the Assessment of Children in Need and their Families"* provides the framework for assessing children and families under the Children Act 1989. This includes assessments when there are concerns that a child may be suffering or is suffering harm.

1.7 This guidance should be read in conjunction with the *All Wales Child Protection Procedures* which were published in April 2008.

1.8 Section 175 of the Education Act 2002 requires local authorities and governing bodies of maintained schools and FE institutions to have arrangements for exercising their functions with a view to safeguarding and promoting the welfare of children. This document is one of the pieces of guidance issued by the Welsh Assembly Government to which local authorities and governing bodies must have regard for the purpose of section 175 of the 2002 Act.

1.9 This guidance also applies to proprietors of independent schools by virtue of section 157 of the Education Act 2002.

1.10 Failure to have arrangements in place as required by section 175 and section 157 of the Education Act 2002, or to have regard to this guidance, may be grounds for the Welsh Assembly Government to take action against local authorities, governing bodies, or proprietors.

1.11 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 their 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 by their effectiveness in terms of safeguarding children from harm.

1.12 Properly targeted preventative services and early intervention underpin the Welsh Assembly Government's approach to tackle many of the causes of poor outcomes for children. The development of the *Common Assessment Framework* (CAF) in Wales provides emphasis and support to identify and deliver preventative services that could improve the quality of life for children and young people and reduce the likelihood of more serious problems requiring greater levels of intervention. In Wales, initially through the pilot phase launched in September 2007, the CAF process will be supported by a computer system and database that facilitates assessment practice, information sharing and strategic management. The Welsh Assembly Government will be evaluating the outcome of these in 2008.

1.13 Key definitions and concepts

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	See *Neglect* below.
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.
Child protection	**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.
Children	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.
Development	Physical, intellectual, emotion, social or behavioural development.
Harm	Ill-treatment or the impairment of health or development, including, for example, impairment suffered from seeing or hearing the ill-treatment of another.
Health	Physical or mental health.
Local Authority	A county council or county borough council.

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.
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."

Section 2: A Shared Objective

2.1 All schools, including independent schools, and Further Education institutions have a statutory duty to exercise their functions with a view to safeguarding and promoting the welfare of their pupils. This includes statutory duties as outlined in the *Race Relations Act 1976, and the Race Relations Amendment Act 2000*, with particular reference to the implementation of the statutory Race Equality Policy. The Code of Practice on the Duty to Promote Race Equality (2002) published by the Equality and Human Rights Commission sets out the statutory duties imposed upon local authorities and educational establishments.

2.2 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.

2.3 The purpose of this guidance is to help local authorities, schools and FE institutions to make sure they have effective systems in place to support the achievement of those objectives. This guidance should also be read by staff within organisations that have an interest in or are involved in safeguarding children.

2.4 Everybody who works with or has contact with children, parents and other adults in contact with, or seeking 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.

2.5 It is the responsibility of all staff to 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. Key staff should be familiar with *"Safeguarding Children: Working Together Under the Children Act 2004"*.

2.6 It is in areas such as this that the *Common Assessment Framework* (CAF) will be of most assistance in helping to develop a more systematic approach towards an assessment process for children who might require help and support, but in circumstances where a formal referral to social services or a specialist agency might not be appropriate. The Welsh Assembly Government has produced practice guidance, which sets out the principles and practices of the CAF to develop understanding and promote its use.

2.7 All staff members who become aware of or have concerns about the welfare or safety of a child or children should know:-

- when and how to make a referral to local authority children's social services;
- what services are available locally;
- how to gain access to them;
- what sources of further advice and expertise are available; and
- who to contact in what circumstances, and how to follow procedures.

Safeguarding and Promoting Welfare

2.8 The introduction of the duty under section 175 of the Education Act 2002 simply requires that existing functions are

exercised in a way that takes into account the need to safeguard and promote the welfare of children.

2.9 There are 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.

2.10 The arrangements that local authorities, schools, and FE institutions have in place need to provide for both of these aspects of safeguarding.

2.11 For local authorities, schools and FE institutions, safeguarding therefore covers more than the contribution made to child protection in relation to individual children. It also encompasses issues such as *pupil health and safety* and *bullying*, about which there are specific statutory requirements, and a range of other issues, for example, arrangements for *meeting the needs of children with medical conditions, sex and relationships education*, and *drugs and substance misuse*, about which the Welsh Assembly Government has issued guidance. There may also be other safeguarding issues that are specific to the local area or population.

2.12 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 Assembly Government. Similarly, arrangements about matters on which the Welsh Assembly Government has issued guidance should be evidenced by policies and procedures that are in accordance with that guidance or achieve the same effect. 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.

2.13 The duties imposed by section 175 of the Education Act 2002 have not been included in legislation previously. The duty to have regard to any guidance given by the Welsh Assembly Government is entirely new. The other provisions of section 175 and the safeguarding provision of the *Independent School Standards (Wales) Regulations 2003*, make explicit 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.

2.14 Those provisions underpin and reinforce that common law duty of care and sit alongside other statutory responsibilities in this area, for example for health and safety and dealing with bullying. They enable the Welsh Assembly Government to enforce compliance, and mean that local authorities, governing bodies and proprietors must make arrangements in accordance with the guidance given by the Welsh Assembly Government.

2.15 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.

2.16 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 Assembly 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 existing disciplinary procedures.

Creating a Safe Learning Environment

2.17 Creating a safe learning environment means having effective arrangements in place to address a range of issues. Some are subject to statutory requirements, including child protection arrangements, pupil health and safety and bullying. Others include arrangements for meeting the needs of children with medical conditions, providing first aid, school security, tackling substance misuse, and having arrangements in place to safeguard and promote the welfare of children on extended vocational placements.

2.18 It also means having in place effective *recruitment, disciplinary* and *reporting* arrangements to ensure the suitability of staff and volunteers working at the establishment in line with specific guidance issued by the Welsh Assembly Government.

Identifying and Responding to Concerns

2.19 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. When a child has additional needs, or is disabled, the school staff will have important information about the child's level of understanding and the most effective means of communicating with the child. They will also be well placed to give a view on the impact of treatment or intervention on the child's care or behaviour.

2.20 It is not the responsibility of staff working in the education service to investigate suspected abuse or neglect. Any concerns should be taken up with the designated child protection person. If the concern relates to an allegation against a member of staff in a school that concern should be referred to the head teacher or where an allegation has been made against the head teacher, to the chair of the governing body who should seek advice from the LA lead child protection officer.

2.21 Any member of staff may be asked for information by a social services department investigating concerns. Staff may also have a role in assisting the social services department by referring concerns, providing information for child protection enquiries under section 47 of the Children Act 1989, contributing to assessments and participating in child protection conferences and reviews.

2.22 Where a child of school age is the subject of an inter-agency 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.

All schools and FE institutions should:

- have a child protection policy and procedures in place that are in accordance with local authority guidance and locally agreed inter-agency procedures;
- ensure that policies and procedures are provided in a format appropriate to the age and understanding of the child, particularly where schools cater for children with additional needs;
- have a senior member of staff who is designated to take lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority, and working with other agencies. In most schools this would be a senior member of the teaching staff but in some settings the designated person would be the most appropriately trained person able to provide advice and support to other staff. (N.B. a deputy should be available to act in the designated person's absence, and in large establishments, or those with a large number of child protection concerns, a number of deputies may be needed);
- ensure that these policies and procedures cover services that extend beyond the school day (e.g. boarding accommodation where provided, community activities on school premises, etc);

- operate recruitment and management procedures that take account of the need to safeguard children and young people, including arrangements for appropriate checks on staff and volunteers and procedures for dealing with allegations of abuse against members of staff that comply with locally agreed inter-agency procedures;

all schools and FE institutions should ensure that:

- all staff and volunteers whether teaching or non-teaching undertake appropriate training to equip them to carry out their responsibilities for safeguarding effectively that is kept up to date by refresher training;
- the designated person undertakes training in inter-agency working that is provided by, or to standards agreed by, the Local Safeguarding Children Board, and refresher training to keep his/her knowledge and skills up to date;
- temporary staff and volunteers who work with children are made aware of the school's arrangements for child protection and their responsibilities;
- any deficiencies or weaknesses in regard to safeguarding arrangements that are brought to its attention are remedied without delay; and
- the governing body (or proprietor in the case of an independent school) designates a governor to take responsibility for child protection matters and ensuring the governing body reviews the school's policies and procedures annually and to be the "link governor" to maintain contact with the statutory authorities in relation to child protection *staff disciplinary* cases as set out in Welsh Assembly Government guidance *circular 45/2004*.

2.23 In addition, employers of teachers and others whose work relates to the provision of education are required to report certain cases of misconduct to the Welsh Assembly Government as outlined in Welsh Assembly Government guidance *Reporting cases of Misconduct or Professional Incompetence in the Education Sector circular 33/2005*.

2.24 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. 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.

Parent/Carer Involvement

2.25 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 draft model note for parents and carers is at **Appendix C** (Model Note 3).

2.26 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.

2.27 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.

Section 3: The Framework for Protecting Children from Abuse and Neglect

3.1 The following sections set out the 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.

The Role of the Local Authority

3.2 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 2004 Act.

3.3 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.

3.4 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, 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.

3.5 Section 23B of the Children Leaving Care Act 2000 places 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.

3.6 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" and the "Assessment Framework"*.

3.7 All local authorities will have identified a senior officer for child protection to undertake and manage the provision of the above functions and services. An outline of the responsibilities that might fall within the remit of a lead officer is at **Appendix A**. Local authorities will wish to consider recommendation 21.23 of the Children's Commissioner's report of his *Clywch* inquiry that authorities should consider putting in place a full time officer for this work. Authorities can also 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.

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

Strategic Responsibilities

3.9 At this level the local authority should:

- allocate resources to support the work of the Local Safeguarding Children Board;
- 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 case reviews in accordance with Chapter 10 of *Safeguarding Children: Working Together Under the Children Act 2004* (Serious Case 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.

Support Responsibilities

3.10 At this level the local authority should:

- make sure that induction training for all new staff in the authority, staff who will work with children in maintained schools, and governors of 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;
- 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 Assembly Government guidance and LSCB agreed procedures for inter-agency working in all appropriate respects. An outline model child protection policy, and guidance relating to these issues is at **Appendix C**;
- 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

3.11 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 *volunteers* who will work with children, including Criminal Records Bureau and List 99 checks in line with Welsh Assembly Government guidance. (This guidance does not cover the requirements of the new Vetting and Barring scheme to be introduced under the Safeguarding Vulnerable Groups Act 2006);
- 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 in 3.6 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 Welsh Assembly Government Guidance *Inclusion and Pupil Support*, Circular 47/2006;

- have procedures in place for dealing with allegations of abuse against members of staff in line with Welsh Assembly Government guidance, and 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.

The Role of Governing Bodies of Maintained Schools

3.12 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.

3.13 This guidance does not apply where a child protection allegation has been made against a member of staff. The procedures to be followed in such cases should be set out in the governing body's agreed staff disciplinary procedures which in turn should have regard to Welsh Assembly Government guidance circular 45/2004 *"Staff Disciplinary Procedures in Schools"*. Further guidance on governing body staff disciplinary procedures in relation to child protection allegations can be found in Section 4 of this guidance.

3.14 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"*.

3.15 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 provide information and reports to the governing body 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. Welsh Assembly Government guidance *Staff Disciplinary Procedures in Schools:* Circular 45/04 outlines the role of the "link governor". Governing bodies will wish to consider the opportunities to extend this role to include responsibilities for exercising governing body functions outlined below as part of their section 175 responsibilities. 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.

3.16 Governing bodies should ensure that-

- the school has an effective child protection policy and procedures in place that are in accordance with local authority guidance and locally agreed inter-agency procedures;
- the policy is reviewed at least annually and is made available to parents or carers on request;
- the school has an up to date and agreed staff disciplinary procedure for dealing with allegations of misconduct against members of staff, including child protection allegations, that complies with the relevant legislation including the appointment of an independent investigator and has regard to Welsh Assembly Government guidance circular 45/2004 and locally agreed inter-agency procedures;
- the school operates safe *recruitment* procedures and ensures that all appropriate checks are carried out on new *staff* and *volunteers* who will work with children, including Criminal Records Bureau and List 99 checks in line with current guidance; (This guidance does not cover the requirements of the new Vetting and Barring scheme to be introduced under the Safeguarding Vulnerable Groups Act 2006).

- there is a senior member of the school's leadership/management team designated to take lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority and working with other agencies. The designated person need not be a teacher but must have the status and authority within the school to carry out the duties of the post (see **Appendix B**), including committing resources to child protection matters, and where appropriate directing other staff. In many schools a single designated person will be sufficient, but a deputy should be available to act in the designated person's absence. In large establishments, 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;
- in addition to basic child protection training, the designated person 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;
- the head teacher and all other permanent staff and volunteers who work with children undertake appropriate training to equip them to carry out their responsibilities for child protection effectively, which is kept up to date by refresher training. Temporary staff and volunteers providing cover during short term absences and who will be working with children are given clear guidance of the school's arrangements for child protection and their responsibilities;
- the governing body remedies without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to its attention; and
- the governing body reviews its safeguarding policies and procedures annually and where requested provides information to the local authority about how the above duties have been discharged.

The Role of Governing Bodies of Further Education Institutions

3.17 The responsibilities of governing bodies (Corporations) of further education institutions are similar in principle to those of governing bodies of maintained schools, and the guidance in paragraphs 3.12 - 3.16 above applies (with appropriate modification). However, FE institutions are also different from schools in some respects. 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.

3.18 The arrangements FE governing bodies need to put in place in respect of students under 18 years of age are therefore similar in principle to those that are listed in paragraph 3.16 (with appropriate modifications).

3.19 In particular the governing body should ensure that the institution:

- has a child protection policy and procedures in place that are in keeping with locally agreed inter-agency procedures, and the policy is made available to students/parents or carers on request;
- has procedures for dealing with allegations of abuse against members of staff and volunteers that comply with locally agreed inter-agency procedures;
- operates safe *recruitment* procedures and makes sure that all appropriate checks are carried out on new *staff* and *volunteers* who will work with children, including Criminal Records Bureau and List 99 checks, (This guidance does not cover the requirements of the new Vetting and Barring scheme to be introduced under the Safeguarding Vulnerable Groups Act 2006).

- has a senior member of the institution's staff who is designated to take lead responsibility for dealing with child protection issues, providing advice and support to other staff, liaising with the local authority and working with other agencies. The designated person must have the status and authority within the institution's management structure to carry out the duties of the post (see **Appendix B)** including committing resources to child protection matters, and where appropriate directing other staff. Dealing with individual cases may be a responsibility of the student welfare or student support arrangements in institutions, but it is important that a senior member of staff takes responsibility for this area of work;
- 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.

In addition to basic child protection training, the designated person should undertake 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.

The Principal and all other permanent staff and volunteers who work with children should undertake appropriate training to equip them to carry out their responsibilities for child protection effectively, that is kept up to date by refresher training. Temporary staff and volunteers providing cover during short term absences and who will be working with children and young people should be given clear guidance of the institution's arrangements for child protection and their responsibilities.

The governing body should remedy without delay any deficiencies or weaknesses in regard to child protection arrangements that are brought to its attention; and the governing body should undertake an annual review of its safeguarding policies and procedures and how the above duties have been discharged.

The Role of Head teachers and Principals

3.20 Head teachers of schools and Principals of 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 *Procedures for Whistleblowing in Schools and Model Policy* - circular 36/2007.

The Role of Proprietors of Independent Schools

3. 21 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. In any event, proprietors should ensure that:

- they comply with the requirements of the *"Independent Schools Standards Regulations 2003"*;
- the school has a child protection policy and procedures in place that are in accordance with locally agreed inter-agency procedures, and the policy is made available to parents or carers on request;

- the school has procedures for dealing with allegations of abuse against members of staff that comply with locally agreed inter-agency procedures and for the proprietor to 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;
- the school operates safe recruitment procedures and makes sure that all appropriate checks are carried out on new staff and volunteers who will work with children, including Criminal Records Bureau and List 99 checks; (This guidance does not cover the requirements of the new Vetting and Barring scheme to be introduced under the Safeguarding Vulnerable Groups Act 2006);
- the school has a senior member of the school's leadership/ management team who is designated to take lead responsibility for dealing with child protection issues and liaising with the LSCB and other agencies where necessary. The designated person need not be a teacher but must have the status and authority within the school to carry out the duties of the post (see **Appendix B**) including committing resources to child protection matters and where appropriate directing other staff. In many independent schools a single designated person will be sufficient, but a deputy should be available to act in the designated person's absence, and in schools which are organised on different sites or with a separate management structure, there should be a designated person for each part or site;
- in addition to basic child protection training, the designated person undertakes training in inter-agency working that is provided by, or to standards set by, the LSCB, and refresher training to keep his/her knowledge and skills up to date;

- the head teacher and all other permanent staff and volunteers who work with children undertake appropriate training that equips them with the knowledge and skills that are necessary to carry out their responsibilities for child protection effectively, and that it is kept up to date by refresher training. Temporary staff and volunteers who work with children are made aware of the school's arrangements for child protection and their responsibilities;
- any deficiencies or weaknesses in regard to child protection arrangements are remedied without delay; and
- the proprietor undertakes an annual review of the school's policies and procedures relating to safeguarding, and how the above duties have been discharged.

Boarding Schools

3.22 Proprietors of independent schools who provide accommodation for children will be aware that such establishments are inspected by both Estyn and the Care and Social Services Inspectorate for Wales (CSSIW). The Welsh Assembly Government has published guidance on the *"National Minimum Standards (NMS) for Residential Special Schools"* and the *"National Minimum Standards for Boarding Schools"* to be met as part of independent schools' initial and continued registration.

3.23 The *"Independent Schools Standards 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 will be 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 NMS for Residential Special Schools and Standard 3 of the NMS in respect of 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.

Community Focused Schools, Pre and Post-School Activities and Out Of Hours Learning

3.24 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.

3.25 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.

Child Protection Training/Inter Agency Training

3.26 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.

3.27 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. Further information on Inter-Agency Training and Development is set out in Chapter 11 of *"Safeguarding Children: Working Together under the Children Act 2004"*.

3.28 The Better Schools Fund 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.

3.29 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.

3.30 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.

3.31 When staff with designated lead responsibility for child protection take up that role, they should receive training in inter-agency 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.

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

3.33 Teachers will have received training in child protection as part of the course of training leading to Qualified Teacher Status but this will need to be reinforced by further training, or refresher training, when they are first appointed and undertake suitable refresher training to keep their knowledge and skills up to date.

3.34 The Welsh Assembly Government has introduced legislation with revised requirements for initial teacher training (ITT) courses. This specifies that all providers must ensure that trainees are familiar with the most recent national guidance on child protection, including the Children's Commissioner for Wales' *Clywch* report into child abuse; that training courses include awareness of how abusers might operate; and that the findings of the Clywch report form part of training courses.

3.35 The Welsh Assembly Government has also issued *"Becoming a Qualified Teacher: Handbook of Guidance"* as Welsh Assembly Government guidance circular 41/2006. This includes coverage of this issue and provides information for ITT providers on particular areas of concern raised in the Children's Commissioner's report.

Additional advice on Safeguarding Children

3.36 **Appendix D** provides additional advice on a range of topics which may be of assistance to local authorities, governors, proprietors, principals and head teachers in discharging their responsibility to safeguard children and young people.

3.37 **Appendix E** provides procedural Flow Charts when a practitioner or member of staff has concerns about the welfare of a child. These have been taken from Safeguarding Children: Working Together Under the Education Act 2004.

Section 4: Preventing Unsuitable People from Working with Children

Appointment of Staff

4.1 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 makes clear the organisation's commitment to safeguarding and promoting the welfare of children. 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 the mandatory check of List 99 and, where appropriate, a check with Criminal Records Bureau (CRB).

4.2 Further advice can be found in Welsh Assembly Government guidance circular 34/2002 *"Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service"* and 02/2003 *"Criminal Records Bureau: Checks on Volunteers"*. A supplement to circular 02/2003 was issued following revised requirements as set out in the *Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007* which have amended *the Staffing of Maintained Schools (Wales) Regulations 2006*, which provides that members of staff should be subject to an enhanced CRB check and further sets out requirements in relation to temporary or support staff supplied by an agency.

4.3 Revised requirements for pre-employment checks for staff providing education in Further Education Institutions are set out in the *Persons Providing Education at Further Education Institutions in Wales (Conditions) Regulations 2007*.

4.4 In accordance with *section 3(3B) 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 CRB check.

4.5 This guidance does not cover the requirements of the new Vetting and Barring scheme to be introduced under the Safeguarding Vulnerable Groups Act 2006. Separate guidance will be issued on the scheme.

Dealing with Allegations of Abuse Against Teachers and Non Teaching Staff in Maintained schools in Wales

4.6 It is essential that any allegation of abuse made against a teacher or other member of staff 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.

4.7 Once the statutory authorities i.e the police and social services have completed their consideration of a child protection allegation using locally agreed safeguarding children procedures, the matter is passed to the governing body to complete the staff disciplinary process at school level. Governing bodies are responsible for staff disciplinary matters in all maintained schools. 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.

4.8 In dealing with staff disciplinary issues involving child protection allegations, governing bodies of maintained schools in Wales must also comply with *the Government of Maintained Schools (Wales) Regulations 2005;* and the *Staffing of Maintained Schools (Wales) Regulations 2006*. Where allegations are made against a member of the school's staff that involves issues of child protection the governing body must appoint an independent investigator to

investigate the allegations prior to the hearing of any proceedings relating to the incident.

4.9 To help governing bodies meet the requirement of independent investigation the Welsh Assembly Government has established an independent investigation service (IIS) which is free of charge to governing bodies. Three detailed guidance letters explaining the IIS and how it fits into locally established child protection/safeguarding children procedures were issued to all schools and LEAs. The letters dated 9 November 2006, 31 March and 31 August 2007 are available on request by telephoning 029 20 826051.

4.10 Welsh Assembly Government guidance circular 45/2004 *"Staff Disciplinary Procedures in Schools"* also sets out specific advice to be followed where a child protection allegation is made against a member of staff. The Guidance sets out the legal responsibilities of governing bodies on disciplinary issues and highlights the need for governing bodies to operate fairly.

Reporting Cases to the Welsh Assembly Government and the Role of the GTCW

4.11 *The Education (Supply of Information)(Wales) Regulations 2003* require employers of teachers and others whose work relates to the provision of education and teaching supply agencies to report certain cases of misconduct to the Welsh Assembly Government. Reports must be made where employers or agencies cease to use a person's services on the grounds of unsuitability to work with children, misconduct or health where that concerns the safety and welfare of children. A report is also required where the employer *might* have ceased to use the person's services on one of these grounds had he or she not already ceased to provide those services. An employer is therefore required to make a report if a person is dismissed on one of those grounds or where someone resigns in circumstances where he or she would have been dismissed, or might have been dismissed, on those grounds.

4.12 Cases of unacceptable professional conduct are passed to the Department for Children, Schools and Families (DCSF)

who deal with all cases on behalf of Welsh Ministers under a concordat agreement.

4.13 DCSF deal with cases involving the safety and welfare of children, issues of medical fitness, or where the person is not a teacher or is an unregistered teacher. Those cases involving registered teachers, that do not have child welfare implications (such as drug-related offences, theft of school property or monies, or an offence involving serious violence but not against a child), are sent by DCSF to the GTCW to investigate under the Council's disciplinary powers.

4.14 All employers, for example, local authorities, schools, FE institutions, other bodies, and agents all have a statutory duty to make reports, and to provide relevant information to the Welsh Assembly Government in line with guidance circular 33/2005 *"Reporting Cases of Misconduct or Professional Incompetence in the Education Service"***.**

Information Sharing

4.15 Information Sharing in respect of children and young people covers all services including education; early years and childcare; health; social care; youth offending; police; advisory and support services and leisure.

4.16 **Further information on information sharing may be found at Appendix F.**

Appendix A

Broad Areas of Responsibility for Local Authority Designated Lead Officers for Child Protection

Co-ordination

- staff structure to deliver responsibilities
- funding for local authority activities.

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.

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.

Training and awareness-raising

- single agency, multi-agency and inter-agency; and
- written guidance.

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.

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;

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 & 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 substances or drugs; and
- children in residential schools outside the local authority.

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 Assembly Government guidance, LSCB procedures or standards;
- implementation of recommendations of Serious Case Reviews or similar; and
- use of restraint.

Accountability

- representation of local authority at local and national level; and
- personal training to be able to fulfil the role.

Liaison with personnel services provider

- safe recruitment and selection procedures, vetting arrangements; and disciplinary procedures and allegations of abuse against staff.

Appendix B

Broad Areas of Responsibility for the Designated Senior Person for Child Protection

Referrals

- refer cases of suspected abuse or allegations to the relevant investigating agencies. Where these relate to cases of suspected abuse or allegations of abuse against staff, staff should follow Welsh Assembly Government guidance circular 45/2004;
- act as a source of support, advice and expertise within the educational establishment when deciding whether to make a referral by liaising with relevant agencies;
- liaise with head teacher or principal (where role not carried out by the head teacher) to inform him or her of any issues and ensure there is always cover for this role;
- keep detailed accurate secure written records of referrals or concerns; and
- liaison with local authority designated lead officer for child protection.

Training

- to recognise how to identify signs of abuse and when it is appropriate to make a referral;
- 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;
- ensure each member of staff and any volunteer has access to and understands the school's child protection policy especially new or part time staff who may work with different educational establishments;
- ensure all staff have induction and refresher training covering child protection and are able to recognise and report any concerns immediately they arise; and

- obtain access to resources and attend any relevant or refresher training courses at appropriate intervals.

Raising awareness

- ensure the establishment's child protection policy is updated and reviewed annually and work with the governing body or proprietor regarding this;
- ensure 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; and
- where children leave the establishment ensure their child protection file is copied to the new establishment as soon as possible but transferred separately from main pupil file.

Appendix C

Model Note 1

Model Child Protection Policy for Schools

Child Protection Policy for (Name of School)

Introduction

1.1 *(Name of School)* fully recognises the contribution it makes to child protection.

There are three main elements to our policy:-

a. prevention through the teaching and pastoral support offered to pupils;

b. 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

c. support to pupils who may have been abused.

1.2 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.

Prevention

2.1 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:-

a. establish and maintain an ethos where children feel secure and are encouraged to talk, and are listened to;

b. ensure children know that there are adults in the school whom they can approach if they are worried or in difficulty;

c. include in the curriculum, activities and opportunities for PSE which equip children with the skills they need to stay safe from abuse and to know to whom to turn for help; and

d. 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.

Procedures

3.1 We will follow the All Wales Child Protection Procedures that have been endorsed by the Local Safeguarding Children Board.

3.2 The school will:-

a. ensure it has a designated senior member of staff, who has undertaken the appropriate training;

b. 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*;

c. 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.

d. 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;

e. 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;

f. provide training for all staff so that they know:-

   i. their personal responsibility;
   ii. the agreed local procedures;
   iii. the need to be vigilant in identifying cases of abuse; and
   iv. how to support a child who discloses abuse.

g. 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);

h. 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;

i. 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;

j. ensure all records are kept secure and in locked locations;

k. adhere to the procedures set out in the Welsh Assembly Government guidance circular 45/2004 *Staff Disciplinary Procedures in Schools*;

l. ensure that recruitment and selection procedures are made in accordance with Welsh Assembly Government guidance circular 34/2002 *"Child Protection: Preventing Unsuitable People from working with Children in the Education Sector"*; and

m. designate a governor for child protection who will oversee the school's child protection policy and practice.

Supporting the Pupil at Risk

4.1 We recognise that children who are at risk, suffer abuse or witness violence may be deeply affected by this.

4.2 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.

4.3 The school will endeavour to support the pupil through:-

a. the content of the curriculum to encourage self esteem and self motivation (see section 2 on Prevention);

b. the school ethos which:-

   i. promotes a positive, supportive and secure environment; and

   ii. gives pupils a sense of being valued (see section 2 on Prevention);

c. 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;

d. 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 and the Education Welfare Service; and

e. keeping records and notifying Social Services as soon as there is a recurrence of a concern;

4.4 When a pupil on the child protection register leaves, we will transfer information to the new school immediately and inform Social Services.

Bullying

4.5 Our policy on bullying is set out in *(a separate document/ the school's behaviour policy)* and is reviewed annually by the governing body.

Physical Intervention

4.6 Our policy on physical intervention is set out in *(a separate document)* and is reviewed annually by the governing body.

Children with Statements of Special Educational Needs

4.7 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.

Model Note 2

Model Note for Staff

What to do if a child tells you they have been abused by someone other than a member of staff.

Where the allegation is against a member of staff you should refer to Welsh Assembly Government guidance *circular 45/2004*.

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 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 childs 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 .....

Model Note 3

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 Assembly Government.

Independent schools are required to meet equivalent requirements under standards introduced under the terms of 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.

Model Note 4

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
……

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:-

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.
0800 11 11
www.childline.org.uk

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.
0808 800 5000
www.nspcc.org.uk

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 Assembly Government.
www.funkydragon.org.uk

Children's Commissioner for Wales
Children's Champion - Independent human rights institution for children.
0808 801 1000 The lines are open from 9am to 5pm (Monday to Friday)
www.childcom.org.uk

Clic
The National Information and Advice Service for young people in Wales 11 to 25.
www.cliconline.co.uk

Samaritans
Free and confidential advice and support
08457 90 90 90
www.samaritans.org.uk

Barnardo's
Barnardo's works with vulnerable children and young people, helping them and their families to overcome problems like abuse, homelessness and poverty.
020 8550 8822 (national rate, 8am-6pm Mon - Fri)
www.barnardos.org.uk

BBC One Life
This website provides advice on children and young people's rights, what to do if they are being abused and how to get help.
www.bbc.co.uk/surgery

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.
08451 205 204
www.kidscape.org.uk

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

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

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

Appendix D

Safeguarding Children - Further Advice and Guidance

The following sections include information and links to sources of further advice and guidance about a variety of issues that relate to helping keep children safe from abuse and neglect. Issues include: training, educating children through the Personal and Social Education (PSE) curriculum, listening to children and some issues that can make children more vulnerable or should be regarded as abuse and confidentiality.

Abuse of Trust

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. *"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 and vulnerable adults.

Physical Contact with Pupils/Restraint

It is not realistic to suggest that teachers should never touch pupils, and they, and other staff in schools, have the right to use reasonable force to control or restrain pupils in certain circumstances. Welsh Assembly Government guidance circular 37/98 *"The Use of Reasonable Force to Control or Restrain Pupils"* is available in hard copy only. Please call 029 2082 6073 quoting circular 37/1998.

The Welsh Assembly Government considers that guidance it issues on restrictive physical intervention policy and practice for professionals who work with children, young people, adults and older people in health, education and social care settings should share a common framework of principles and expectations.

An overarching Framework for Physical Intervention in all service areas was published by the Welsh Assembly Government in March 2005. It is anticipated that the framework will prove useful for commissioners of services and that providers will consider when drafting policies and procedures, reviewing current arrangements and arranging or commissioning training. The Framework does not advise on individual actions required in specific circumstances or specific service settings nor does it recommend specific methods of restraint.

The existing guidance specifically for physical intervention in education settings is scheduled for revision in 2008 to take account of the new framework.

Educating Children about Issues as part of Personal and Social Education (PSE)

It is important to make children and young people aware of behaviour towards them that is not acceptable and how they can help keep themselves safe. The framework for PSE provides opportunities for children and young people to learn about keeping safe; and who to ask for help if their safety is threatened. As part of developing a healthy, safer lifestyle pupils should be taught, for example:-

- to recognise and manage risks in different situations and then decide how to behave responsibly;
- to judge what kind of physical contact is acceptable and unacceptable;

- to recognise when pressure from others (including people they know) threatens their personal safety and well-being and develop effective ways of resisting pressure; including knowing when and where to get help; and
- to use assertiveness techniques to resist unhelpful pressure.

Issues such as domestic violence and abuse can be difficult to broach directly in the classroom. However, discussions about personal safety and keeping safe can reinforce the message that any kind of violence is unacceptable; let children and young people know that it is okay to talk about their own problems; and signpost sources of help. Raising these issues can lead children to bring up personal problems and concerns and staff delivering lessons on these subjects need to be prepared for that possibility.

Links to more information about PSE classroom resources and sources of support, are available through the following links:-

Welsh Network of Healthy School Schemes -

"Promoting Personal Safety in PSE

"Broadband the New Language in Education"

Personal and social education Framework for 7-19 year olds in Wales

Child Exploitation and Online Protection Centre.

Children who go Missing from Education

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.

There are a number of reasons why children go missing from education and these can include:-

- failing to start appropriate provision and hence never entering the system;

- ceasing to attend, due to exclusion (e.g. illegal unofficial exclusions) or withdrawal;
- failing to complete a transition between providers or between Year 6 to Year 7 or if expected as a Rising 5 as part of a school's new intake; or
- going on an extended holiday or not returning from an extended holiday when expected.

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.

Their personal circumstances or those of their families may contribute to the withdrawal process and the failure to make a transition.

There are certain groups of vulnerable children who are more likely than others to become missing from education:-

- children and young people who do not always appear on the usual records e.g. travellers;
- children and young people who are excluded from school;
- children and young people who truant from school post-registration;
- looked after children;
- children and young people who are not educated for various reasons within the state school system;
- children and young people living in women's refuges;
- children of homeless families perhaps living in temporary accommodation;

- children and young people within the criminal justice system;
- young runaways;
- children with long term medical or emotional problems;
- young carers;
- young parents and pregnant young women; and
- migrant children whether in families seeking asylum or economic migrants.

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.

It is strongly recommended that LEAs put in place procedures designed to monitor the whereabouts of a child at risk of going missing from education and to record that they have completed these procedures.

Supplementary guidance relating to this can be found in Chapter 5 of the Welsh Assembly Government's circular 18/2006 *"Educational Records, School Reports and the Common Transfer System"*.

Listening to Children

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.

Children also 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, 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 C** Model Note 4.

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.

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.

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.

Staff must also be aware that:-

- it is not the responsibility of teachers or other staff or volunteers in schools and FE institutions to investigate suspected cases of abuse;
- any concerns should be taken up with the designated child protection person; and

- they cannot promise a child complete confidentiality - instead they must explain that they may need to pass information to other professionals to help keep the child or other children safe.

Confidentiality

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. 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 whether or not to share information should be properly documented.

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.

Principles underpinning work to safeguard and promote the welfare of children

The following principles should be followed when implementing the guidance set out when participating in individual cases. They will be relevant to varying degrees depending on the functions

and level of involvement of the organisation and the individual practitionerconcerned. Work with children and families should be:-

- child centred;
- rooted in child development;
- supporting the achievement of the best possible outcomes for children and improving their wellbeing;
- holistic in approach;
- ensuring equality of opportunity;
- involving children and families;
- building on strengths as well as identifying and addressing difficulties;
- multi/inter-agency in its approach;
- a continuing process;
- designed to identify the services required and monitor the impact their provision has on a child's developmental progress; and
- evidence based.

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.

Outcomes for children

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.

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.

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 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 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 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.

Ensuring 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.

Working with 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.

Building on strengths as well as identifying 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 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.

Assessment is 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.

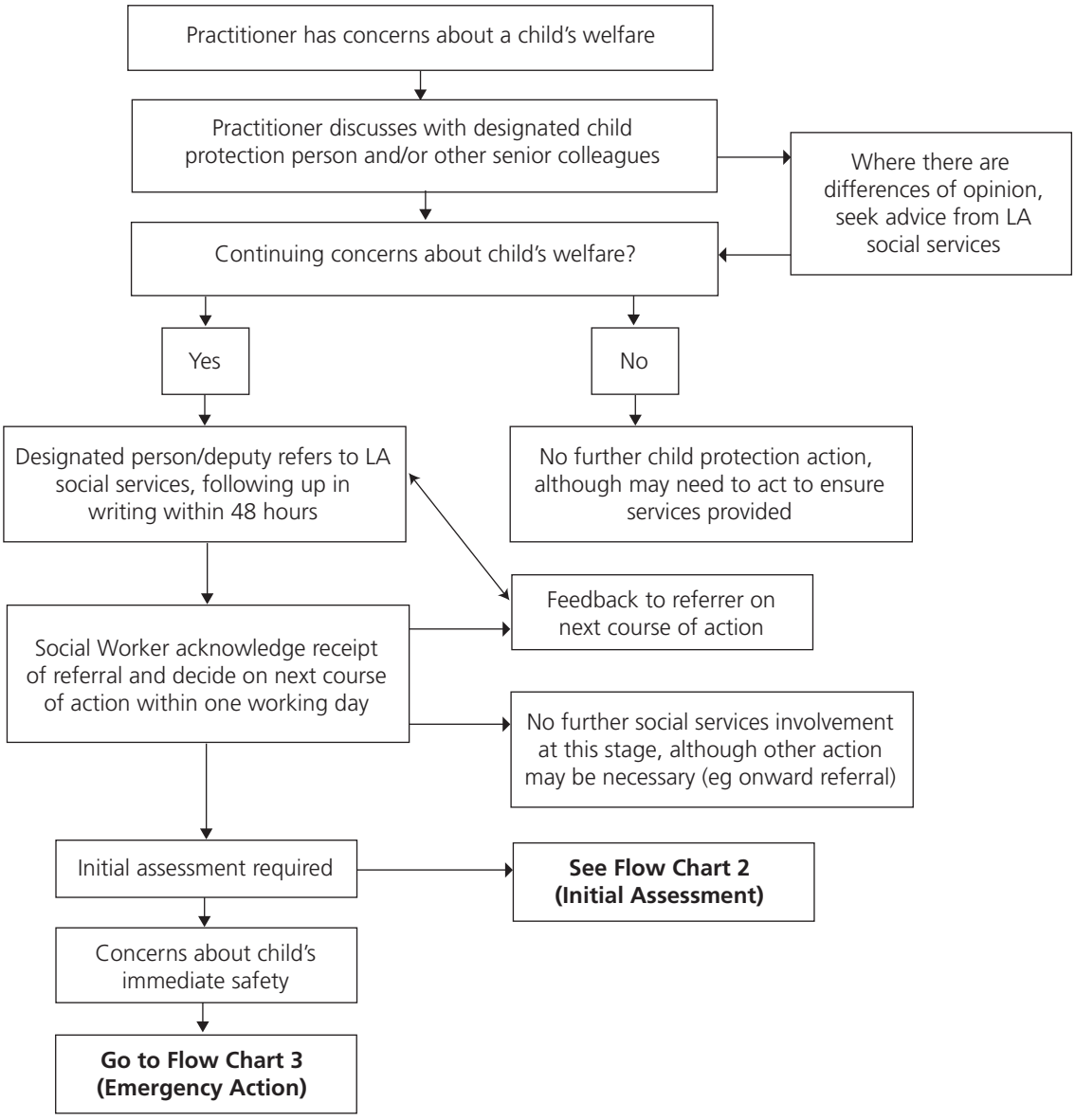
Safeguarding in Specific Circumstances

Chapter 9 of the Welsh Assembly Government guidance *"Safeguarding Children: Working Together under the Children Act 2004"* contains additional guidance for practitioners on a number of special considerations that apply to safeguarding children in a range of specific circumstances including:-

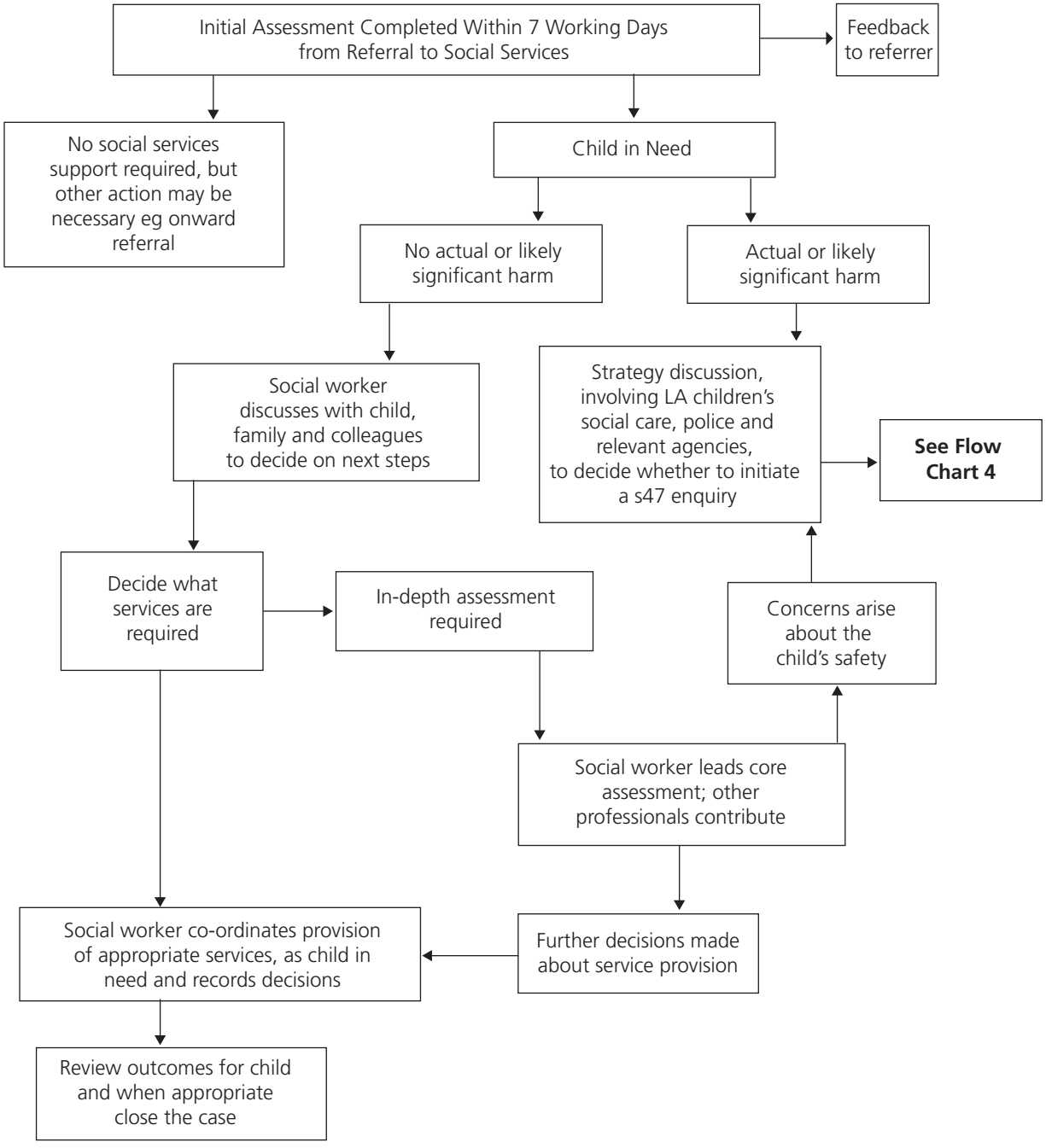
- children living away from home;
- race and racism;
- bullying;
- foster care and private fostering;

- organised or multiple abuse;
- children in hospital;
- children in custody;
- disabled children;
- abuse by children and young people;
- lack of parental control;
- domestic abuse;
- sexual exploitation of children;
- child abuse images, the Internet and information technologies;
- fabricated or induced illness;
- children of substance misusing parents;
- abuse linked to belief in "possession" or "witchcraft" or in other ways related to spiritual or religious belief;
- children and families that go missing;
- looked after children who run away and those that go missing from their care placement;
- children who go missing from education;
- children living in temporary accommodation;
- migrant children;
- child victims of trafficking;
- unaccompanied asylum seeking children;
- female genital mutilation; and
- forced marriages.

Flow Chart 1 - Referral

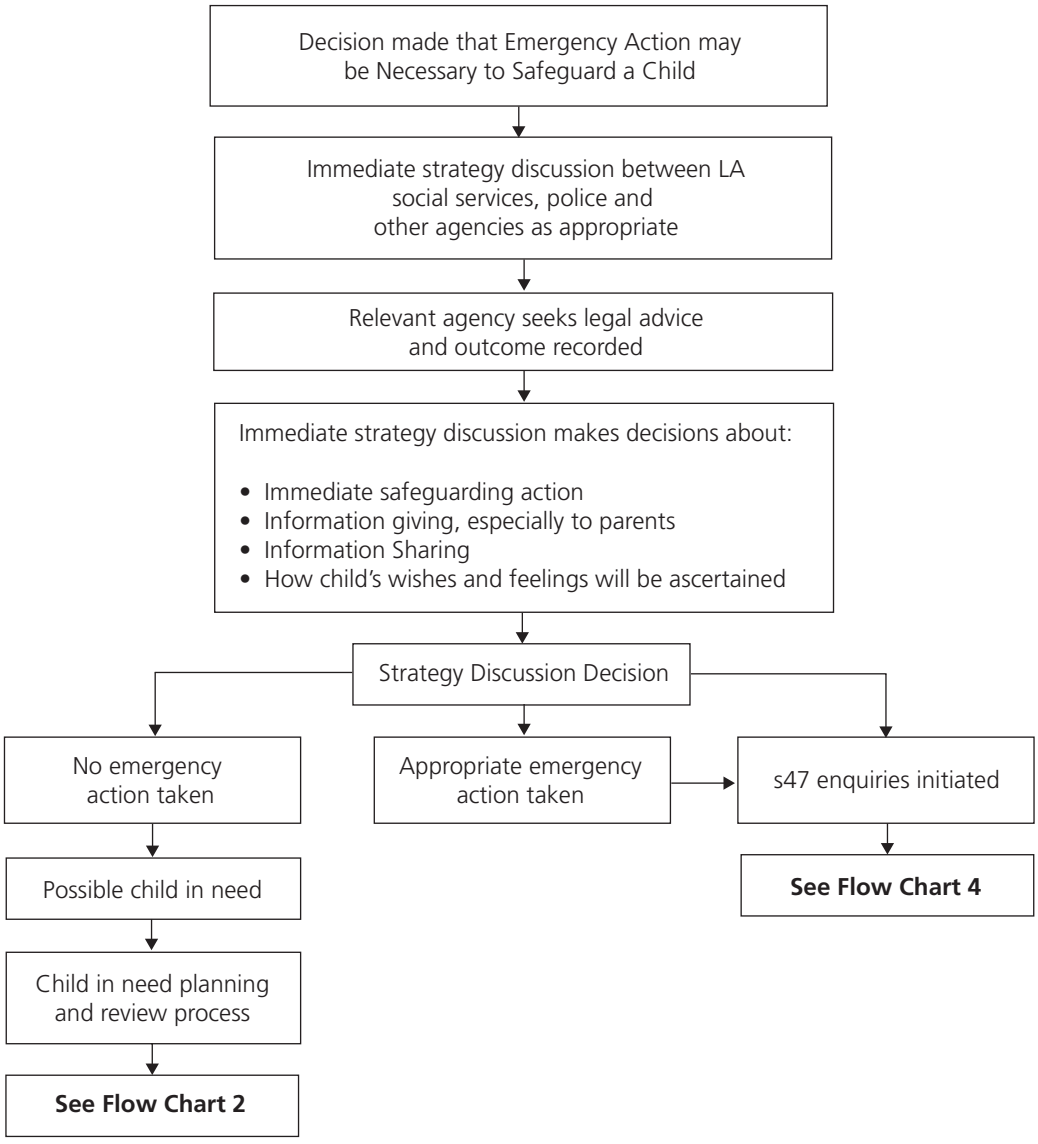


Flow Chart 2 - What happens following Initial Assessment

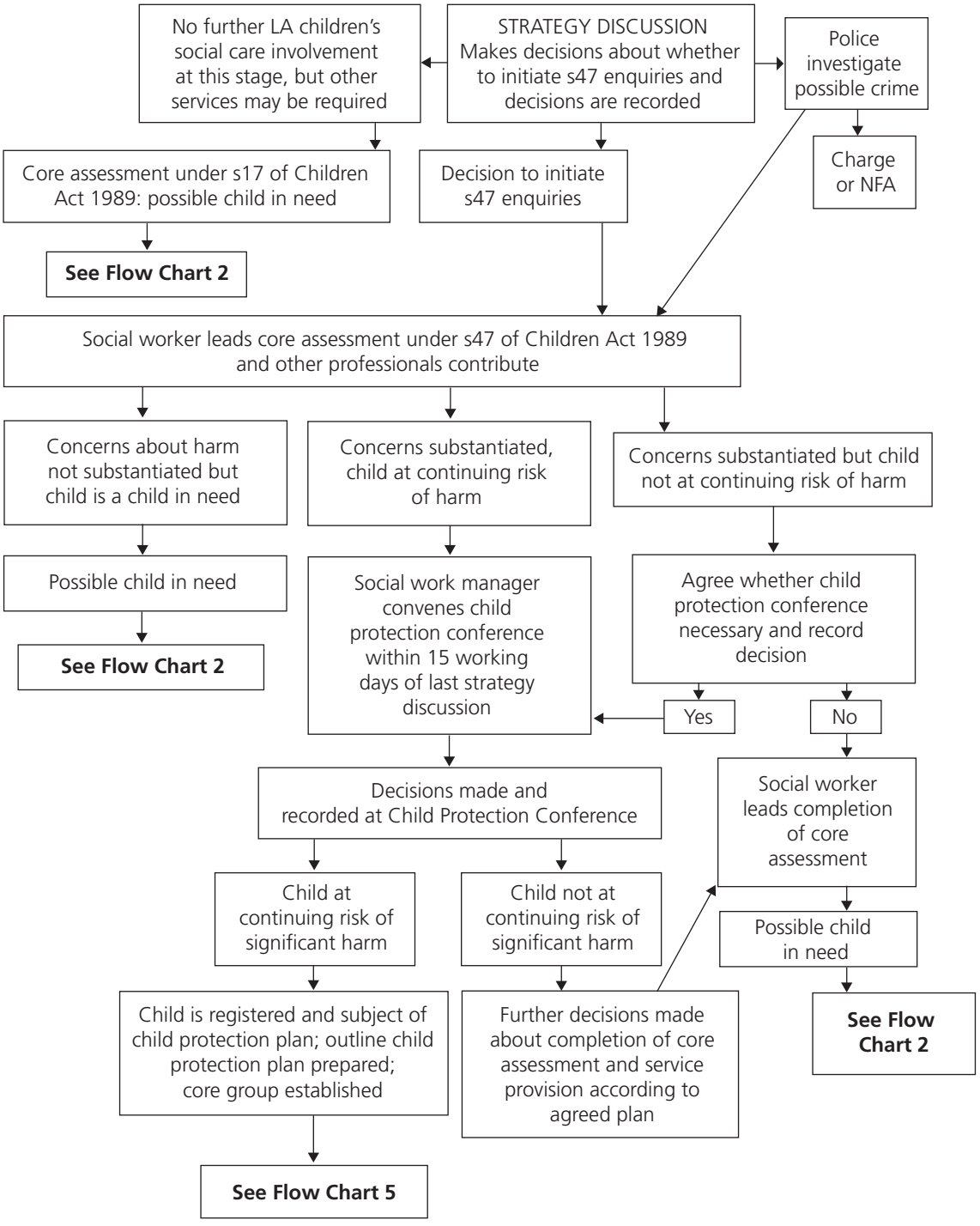


Practice Note: The family, the original referrer, and other professionals and services involved in the assessment, should, as far as possible, be told what action has been and will be taken, consistent with respecting the confidentiality of the child and family concerned, and not jeopardising further action in respect of concerns about harm (which may include police investigations). This information should be confirmed in writing to the agencies and the family.

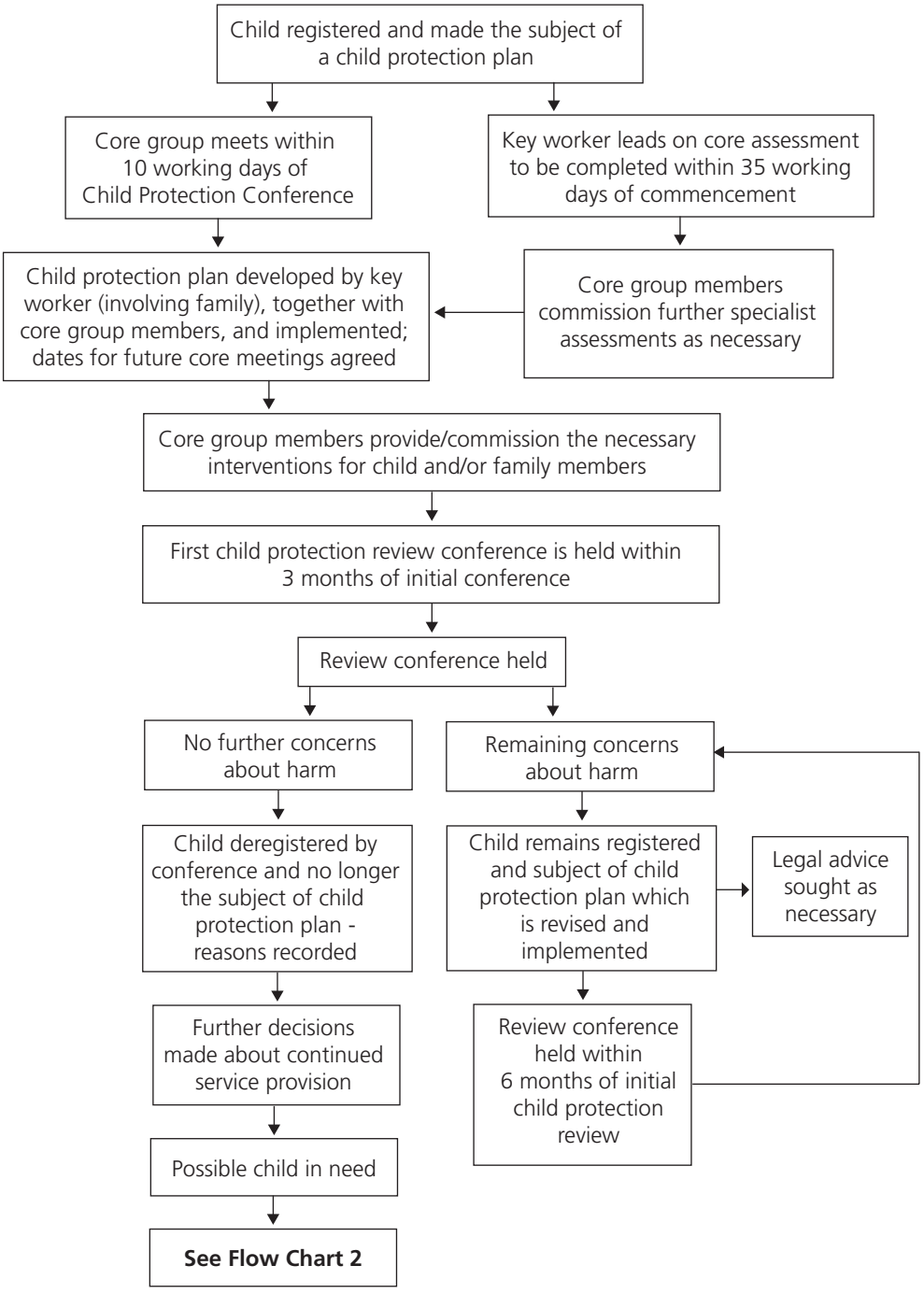
Flow Chart 3 - Urgent Action to Safeguard Children



Flow Chart 4 - What happens after the Strategy Discussion?



Flow Chart 5 - What happens after the Child Protection Conference, including the Review Process?



Appendix F

Information Sharing

This guidance is consistent with the guidance to LSCBs contained within Welsh Assembly Government guidance ***"Safeguarding Children: Working Together under the Children Act 2004"***.

The guidance, which is non-statutory, is for all those who work with children and young people in these services, whether they are employed or volunteers and working in the public, private or voluntary sectors. It recognises that most decisions to share information require a professional judgement and aims to provide the knowledge and understanding practitioners need to inform their judgement. It covers the main reasons why practitioners may want or need to share information:-

- to help children or young people achieve the key outcomes we want for all: be healthy, stay safe, enjoying and achieving, making a positive contribution and achieving economic well-being;
- to safeguard and promote the welfare of children and young people, by protecting them from abuse, preventing impairment of their health or development, or ensuring they grow up in circumstances consistent with the provision of safe and effective care; and
- to prevent children and young people from committing crime.

The guidance also:-

- sets out key principles of information sharing;
- highlights the difficult issues practitioners sometimes face in sharing information;
- sets out core guidance for all practitioners on information sharing issues;
- summarises the key things practitioners should know about the Common Law Duty of Confidence, the Human Rights Act and the Data Protection Act; and
- provides further information about the legislation which provides a legal basis for information collection, use and sharing.

Key principles of information sharing

In order to make soundly-based decisions practitioners need to understand the general principles of sharing information identifiable to a child, young person or their parent/carers.

- 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; and
- information should be accurate, held securely and kept for no longer than necessary.

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. 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.

Difficult issues practitioners face

Most practitioners in children's services understand that they have a duty to share information when they or others have evidence that a child is being, or is at risk of being, abused or neglected (i.e. child protection). The more difficult situations are where:-

- there is little or no clear evidence, but you or others have a niggling worry that the child may be at risk of abuse or neglect; or
- the concern is not about abuse or neglect, but about other aspects of a child's welfare or well-being, such as a health issue, their attendance and performance at school, or their propensity to become involved in offending.

It is also increasingly recognised in practice that a failure to share information, even at a level of a "niggling worry", may have serious consequences for the welfare of a child or young person, or for others. Often it is not until information is shared and understood, that a clearer picture emerges, which may confirm or allay concerns about a child or young person's safety and welfare.

The law is often cited as a barrier to sharing information in these situations. You may be uncertain about the legal or ethical issues about sharing information, particularly with other agencies.
You may be anxious about sharing information, for example where:-

- you worry that you may have misjudged the situation and you will be blamed, disciplined or even sued;
- you are uncertain about how you tell a parent that you are concerned about how they are caring for their child;
- you are concerned that you may harm your relationship with your patient or client if you voice your concerns;
- you are concerned that other practitioners will not treat the child and family sympathetically, if you share your concerns with them;

- you are concerned that other practitioners will not treat the information confidentially;
- you are concerned that other practitioners will make things worse and possibly break up a family;
- you suspect there may be violence in the family and you could make things worse for a child, young person or partner in the family; or
- you are frightened that you will be attacked either verbally or physically.

These are real and very common worries that apply to most practitioners working with children, young people and families and are not easy to deal with.

Without relevant information practitioners cannot form sound judgements, assess needs or decide on the appropriate services to meet needs. Lack of information increases the risk of children "slipping through the net". You should not be deterred from sharing information by the feeling that there are legal hurdles nor should you assume that the 'safer' course is not to share information.

In most situations you will need to make a professional judgement about whether to seek consent to share information. To inform that judgement you need a basic understanding of the law. You should also be aware of any code of conduct or other guidance applicable to your profession or agency. The law and these codes of conduct almost always permit information to be disclosed with consent. When deciding whether to share confidential information without consent, you also need to make a judgement as to whether the public interest in sharing the information, for example to safeguard and promote the welfare of the child or young person or in preventing or detecting crime, overrides the public interest in maintaining confidentiality.

Wherever possible you should explain the issue, seek agreement and if you decide to act against a parent, young person or child's wishes, explain the reasons for doing so. This may not always

be appropriate, for example in certain cases where you need to share information with the police to prevent or investigate a possible crime. Record your decision on the appropriate records. Chapters 7 and 8 *"Safeguarding Children: Working Together under the Children Act 2004"* set out some good practice for working with children, young people and parents.

Talking things over with your manager or a trusted colleague if they are experienced in these matters, may be helpful, or if you are working in the NHS or Local Authority the Caldicott Guardian may be helpful. If the concern is about abuse or neglect, all organisations have a named person who undertakes a lead role for child protection, so consulting this person may also be helpful.

What are the legal restrictions?

The decision whether to disclose information may arise in various contexts. You may have a niggling concern about a child that might be allayed or confirmed if shared with another agency. You may be asked for information in connection with an assessment of a child's needs under section 17 of the Children Act 1989 or an enquiry under section 47 of that Act or in connection with court proceedings. In all cases the main restrictions on disclosure of information are:

- common law duty of confidence;
- Human Rights Act 1998;
- Data Protection Act 1998.

Each of those has to be considered separately. Other statutory provisions may also be relevant. But in general, the law will not prevent you from sharing information with other practitioners if:

- those likely to be affected consent;
- the public interest in safeguarding the child's welfare overrides the need to keep the information confidential; or
- disclosure is required under a court order or other legal obligation.

Common law duty of confidence

The circumstances in which a common law duty of confidence arises have been built up in case law over time. The duty arises when a person shares information with another in circumstances where it is reasonable to expect that the information will be kept confidential.

The courts have found a duty of confidence to exist where:

- a contract provides for information to be kept confidential;
- there is a special relationship between parties such as patient and doctor, solicitor and client, teacher and pupil;
- an agency or government department such as Her Majesty's Revenue and Customs collects and holds personal information for the purposes of its functions.

The duty is not absolute. Disclosure can be justified if:

- the information is not confidential in nature;
- the person to whom the duty is owed has expressly or implicitly authorised the disclosure;
- there is an overriding public interest in disclosure; or
- disclosure is required by a court order or other legal obligation.

Is the information confidential?

Some kinds of information, such as medical records and communications between doctor and patient, are generally recognised as being subject to a duty of confidence.
Other information may not be, particularly if it is trivial or readily available from other sources or if the person to whom it relates would not have an interest in keeping it secret. For example a social worker who was concerned about a child's whereabouts might telephone the school to establish whether the child was in school that day.

Maintaining confidentiality

As a general rule you should treat all personal information you acquire or hold in the course of working with children and families as confidential and take particular care with sensitive information.

Disclosure by consent

There will be no breach of confidence if the person to whom a duty of confidence is owed consents to the disclosure. Consent can be expressed (that is orally or in writing) or can be inferred from the circumstances in which the information was given (implied consent).

Whose consent is required? The duty of confidence is owed to the person who has provided information on the understanding it is to be kept confidential or, in the case of medical or other records, the person to whom the information relates.

Has consent been given? You do not need express consent if you have reasonable grounds to believe that the person to whom the duty is owed understands and accepts that the information will be disclosed. For example a person who refers an allegation of abuse to a social worker would expect that information to be shared on a (need to know) basis with those responsible for following up the allegation. Any one who receives information, knowing it is confidential, is also subject to duty of confidence. Whenever you give or receive information in confidence you should ensure there is a clear understanding as to how it may be used or shared.

Should I seek consent? If you are in doubt as to whether a disclosure is authorised it is best to obtain express consent. But you should not do so if you think this would be contrary to a child's welfare. For example, if the information is needed urgently the delay in obtaining consent may not be justified. Seeking consent may prejudice a police investigation or may increase the risk of harm to the child.

What if consent is refused? You will need to decide whether the circumstances justify the disclosure, taking into account what is being disclosed, for what purposes and to whom.

Disclosure in the absence of consent

The law recognises that disclosure of confidential information without consent or a court order may be justified in the public interest to prevent harm to others.

The key factor in deciding whether or not to disclose confidential information is **proportionality**: is the proposed disclosure a proportionate response to the need to protect the welfare of the child? The amount of confidential information disclosed, and the number of people to whom it is disclosed, should be no more than is strictly necessary to meet the public interest in protecting the health and well being of a child. The more sensitive the information is, the greater the child-focused need must be to justify disclosure and the greater the need to ensure that only those professionals who have to be informed receive the material (the need to know basis).

The "Need to Know" Basis

Relevant factors:-

- what is the purpose of the disclosure?
- what is the nature and the extent of the information to be disclosed?
- to whom is the disclosure to be made (and is the recipient under a duty to treat the material as confidential)?
- is the proposed disclosure a proportionate response to the need to protect the welfare of a child to whom the confidential information relates?

Is there a difference between disclosing information within your own organisation or to another organisation?

The approach to confidential information should be the same whether any proposed disclosure is internally within one organisation (e.g. within a school, or within social services) or between agencies (e.g. from a teacher to a social worker).

The need to disclose confidential information to others within your own organisation will arise more frequently than will be the case for inter-agency disclosure. For example a teacher will need to discuss confidential information with the Year Head and the Head Teacher more frequently than with a social worker. Pupils and their parents would expect such discussions to take place within the school, so there will usually be implied consent. But if not (e.g. if you disclose information that a child has asked you to keep secret) you will have to decide whether the circumstances justify the disclosure.

What the duty is to a child or young person?

A duty of confidence may be owed to a child or young person in their own right. A young person aged 16 or over, or a child under 16 who has the capacity to understand and make their own decisions, may give (or refuse) consent to a disclosure. Otherwise a person with parental responsibility should consent on their behalf.

The Human Rights Act 1998

Article 8 of the European Convention on Human Rights (which forms part of UK law under the Human Rights Act 1998) recognises a right to respect for private and family life.

> "8.1 Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 8.2 There shall be no interference by a public authority with exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, protection of health or morals or for the protection of rights and freedom of others."

The right is not absolute. Disclosing confidential information to protect the welfare of a child could cause considerable disruption to a person's private or family life. This may, however, be justified by Article 8(2) if it is necessary to prevent crime or to protect the

health and welfare of a child. Essentially it is same "proportionality" test as applies to the common law duty of confidence.

If sharing information is justified under the common law duty of confidence and does not breach the data protection requirements or any other specific legal requirements, it should satisfy Article 8.

The Data Protection Act 1998

The Data Protection Act 1998 regulates the handling of personal data. Essentially, this is information kept about an individual on computer or on a manual filing system. The Act lays down requirements for the processing of this information, which includes obtaining, recording, storing and disclosing it.

If you are making a decision to disclose personal data you must comply with the Act, which includes the eight data protection principles. These should not be an obstacle if:-

- you have particular concerns about the welfare of a child;
- you disclose information to social services or to another professional; and
- the disclosure is justified under the common law duty of confidence.

The first and second data protection principles are the most relevant.

The First Principle

- Personal data shall be processed fairly and lawfully and, in particular shall not be processed unless:-
  - at least one of the conditions in Schedule 2 is met; and
  - in the case of sensitive personal data, at least one of the conditions in Schedule 3 is met.

The Second Principle

- Personal data shall be obtained only for one or more specified lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

"Fairness" is being open with people about how information about them is to be used and the circumstances in which it might be disclosed. Most organisations take steps to make people aware of their policy when they first obtain information from them e.g. by including it on forms or leaflets or by notices in waiting areas. There are a number of exceptions to this requirement, in particular, if the disclosure is for the prevention or detection of crime (which includes neglect or abuse of a child) or is required by a court order or a statute.

A condition in Schedule 2 must be met. Those conditions establish whether there is a legitimate reason for sharing information. They include:-

- the data subject (the person to whom the data relates) consents;
- the disclosure is necessary for compliance with a legal obligation;
- it is necessary to protect the vital interests of the data subject;
- it is necessary for the exercise of a statutory function, or other public function exercised in the public interest (e.g. for the purposes of a section 17 assessment or section 47 enquiry); and
- it is necessary for the purposes of legitimate interests pursued by the person sharing the information, except where it is unwarranted by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

There is a condition to cover most situations where a practitioner shares information to safeguard a child's welfare. In particular, the last condition (legitimate interest) is relevant in all cases and involves a proportionality test very similar to that applied to breaches of confidence.

If the information being shared is sensitive personal data, then a condition in Schedule 3 must also be met. Sensitive personal data relates to the data subject's:

- racial or ethnic origins;
- political opinions;
- religious beliefs;
- membership of a trade union;
- physical or mental health or condition;
- sexual life; or
- criminal offences.

The relevant conditions in Schedule 3 are:-

- the data subject has explicitly consented to the disclosure;
- it is necessary to protect the vital interests of the data subject or another person where the data subject's consent cannot be given or is unreasonably withheld or cannot reasonably be expected to be obtained;
- it is necessary to establish, exercise or defend legal rights; and
- it is necessary for the exercise of any statutory function.

"Legal rights" include a child's rights under the Human Rights Act and defending those rights could include disclosures between professionals to establish whether a child's welfare needed to be safeguarded. Exercise of a statutory function would cover sharing of information amongst social services and other agencies in connection with a section 17 assessment or section 47 enquiry.

The second data protection principle requires that the purpose of the disclosure is not incompatible with the purpose for which the information was obtained. Most organisations include disclosures to other agencies in the purposes notified to the Information Commissioner. Disclosures for prevention or detection of crime or required by a court order or a statute are also exempt from this principle.

If you need advice about the data protection requirements, you should contact the data protection compliance officer in your organisation or, if you do not have one, you can contact the ***Information Commissioner***.

Other statutory provisions

Sections 27 and 47 of the Children Act 1989 enable local authorities to request help from specified authorities (other local authorities, education authorities, housing authorities, NHS bodies) and places an obligation on those authorities to co-operate. A request could be for information in connection with a section 17 assessment or a section 47 enquiry. Neither provision would require an unjustified breach of confidence. But an authority should not refuse a request without considering all the circumstances.

Section 115 of the Crime and Disorder Act 1998 enables any person to disclose information to a relevant authority for any purposes of the Act if they would not otherwise have the power to do so. Relevant authorities include local authorities, NHS bodies and police authorities. The purposes of the Act broadly cover the prevention and reduction of crime and the identification or apprehension of offenders.

Disclosure of information about sex offenders

The Home Office has produced ***guidance*** on the exchange of information about all those who have been convicted of, cautioned for, or otherwise dealt with by the courts for a sexual offence; and those who are considered by the relevant agencies to present a risk to children and others. The guidance also addresses issues arising in relation to people who have not been convicted or cautioned for offences, but who are suspected of involvement in criminal sexual activity.

The guidance emphasises that the disclosure of information should always take place within an established system and protocol between agencies, and should be integrated into a risk assessment and management system. Each case should be judged on its merits

by the police and other relevant agencies, taking account of the degree of risk. The guidance places on the police the responsibility to co-ordinate and lead the risk assessment and management process. It advises that agencies should work within carefully worked out information sharing protocols, and refers to good practice material in existence. It also advocates the establishment of multi-agency risk panels whose purpose is to share information about offenders and to devise strategies to manage their risk.

Professional guidance

Medical

The General Medical Council (GMC) has produced guidance entitled Confidentiality (1995). It emphasises the importance in most circumstances of obtaining a patient's consent to the disclosure of personal information, but makes clear that information may be released to third parties - if necessary without consent - in certain circumstances. Those circumstances include the following:

Disclosure in the patient's medical interests

Problems may arise if you consider that patient is incapable of giving consent to treatment because of immaturity, illness, or mental incapacity, and you have tried unsuccessfully to persuade the patient to allow an appropriate person to be involved in the consultation. If you are convinced that it is essential in the patient's medical interests, you may disclose relevant information to an appropriate person or authority. You must tell the patient before disclosing any information. You should remember that the judgement of whether patients are capable of giving or withholding consent to treatment or disclosure must be based on an assessment of their ability to appreciate what the treatment or advice being sought may involve, and not solely on their age.

If you believe a patient to be a victim of neglect or physical or sexual abuse and unable to give or withhold consent to disclosure, you should usually give this information to an appropriate responsible person or statutory agency, in order to prevent further

harm to the patient. In these and similar circumstances, you may release information without the patient's consent, but only if you consider that the patient is unable to give consent, and that the disclosure is in the patient's best medical interests.

Disclosure in the interests of others

Disclosures may be necessary in the public interest where a failure to disclose information may expose the patient, or others, to risk of death or serious harm. In such circumstances you should disclose the information promptly to an appropriate person or authority.

The GMC has confirmed that its guidance on the disclosure of information which may assist in the prevention or detection of abuse, applies both to information about third parties (e.g. adults who may pose a risk of harm to a child) and about children who may be the subject of abuse.

Nursing

The Nursing and Midwifery Council (NMC) has produced ***advice on professional practice*** (2006), which contains the following advice on disclosing information:

Disclosing information

Registrants need to take account of clauses 5.3 and 5.4 of the Code before deciding to disclose information:-

5.3 If you are required to disclose information outside the team that will have personal consequences for patients or clients, you must obtain their consent. If the patient or client withholds consent, or if consent cannot be obtained for whatever reason, disclosures may be made only where:

i. they can be justified in the public interest (usually where disclosure is essential to protect the patient or client or someone else from the risk of significant harm);

ii. they are required by law or by order of a court.

5.4 Where there is an issue of child protection, you must act at all times in accordance with national and local policies.

Registrants who decide to disclose confidential information without the patient's/client's consent should do so only in exceptional circumstances. They should be able to justify their actions. Disclosure without consent is done only in the public interest to protect individuals, groups or society as a whole from the risk of significant harm. Examples could include child abuse, serious crime or drug trafficking.

Record keeping

Good record keeping is an important part of the accountability of professionals to those who use their services. It helps to focus work, and it is essential to working effectively across agency and professional boundaries. Clear and accurate records ensure that there is a documented account of an agency's or professional's involvement with a child and/or family. They help with continuity when individual workers are unavailable or change, and they provide an essential tool for managers to monitor work or for peer review. Records are an essential source of evidence for investigations and enquiries, and may also be required to be disclosed in court proceedings. Cases where enquiries do not result in the substantiation of referral concerns should be retained in accordance with agency record retention policies. These policies should ensure that records are stored safely and can be retrieved promptly and efficiently.

To serve these purposes, records should be timed and dated, use clear, straightforward language, should be concise, and should be accurate not only in fact, but also in differentiating between opinion, judgements and hypothesis.

Well kept records provide an essential underpinning to good child protection practice. Safeguarding children requires information to be brought together from a number of sources and careful professional judgements to be made on the basis of this information. Records should be clear, accessible and comprehensive,

with judgements made, and actions and decisions taken being carefully recorded. Where decisions have been taken jointly across agencies, or endorsed by a manager, this should be made clear.

Relevant information about a child and family who are the subject of child protection concerns will normally be collated in one place by the social services department. Records should readily tell the 'story' of a case. Specifically, the reader should be able to track:-

- the relevant history of the child and family which led to the intervention;
- the nature of interventions, including intended outcomes;
- the means by which change is to be achieved; and
- the progress which is being made.

Agencies should consider which other agencies and professionals need to be informed about relevant changes of circumstances, for example the change of GP of a child whose name is on the child protection register. Each agency should ensure that when a child moves outside of their area, the child's records are transferred promptly to the relevant agency within the new area.

Supervision and support

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.

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.

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.

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.

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.

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.

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 - 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.

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 Assembly 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.

Appendix G

Relevant Legislation and Guidance

Relevant Legislation

There are a number of statutory provisions that have a bearing on this area, either directly or indirectly. The most important are:-

The Education Act 2002

Section 175 of the Education Act 2002 - requires local authorities and the governing bodies of maintained schools and further education institutions to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children. In addition, those bodies must have regard to any guidance issued by the Welsh Assembly Government in considering what arrangements they need to make for that purpose of the section.

Part 11
MISCELLANEOUS AND GENERAL

General duties of LEAs and governing bodies

175 Duties of LEAs and governing bodies in relation to welfare of children

(1) A local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children.

(2) The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school.

(3) The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting

the welfare of children receiving education or training at the institution.

(4) An authority or body mentioned in any of subsections (1) to (3) shall, in considering what arrangements are required to be made by them under that subsection, have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales.

(5) In this section-

"child" means a person under the age of eighteen;

"governing body", in relation to an institution within the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);

"maintained school" means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school.

Section 157 of the Education Act 2002 and The Education Independent Schools Standards (Wales) Regulations 2003 - require proprietors of independent schools to have arrangements to safeguard and promote the welfare of children who are pupils at the school.

PART 10
INDEPENDENT SCHOOLS
CHAPTER 1
REGULATION OF INDEPENDENT SCHOOLS

Standards

175 Independent school standards

(1) For the purposes of this Chapter, regulations shall prescribe standards about the following matters-

(a) the quality of education provided at independent schools;

(b) the spiritual, moral, social and cultural development of pupils at independent schools;

(c) the welfare, health and safety of pupils at independent schools;

(d) the suitability of proprietors of and staff at independent schools;

(e) the premises of and accommodation at independent schools;

(f) the provision of information by independent schools;

(g) the manner in which independent schools handle complaints.

(2) In this Chapter, "independent school standards" means the standards for the time being prescribed under this section.

The Children Act 1989

Section 17 - 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;

Section 27 - requires local education authorities and other organisations to assist in the exercise of functions, including those under s17;

Section 47 - requires local authorities to make child protection enquiries if they have reasonable cause to suspect a child in their area is suffering or is likely to suffer significant harm, and for local education authorities and other organisations to assist them with those enquiries if asked to do so.

The Children Act 2004

Sections 25, 26 and 27: Co-operation to Improve Well-being

The Welsh Assembly Government has adopted the UN Convention on the Rights of the Child as the basis of all its work for children and young people in Wales. The Convention rights have been translated into seven Core Aims through which the Assembly Government seeks to implement, to ensure that all children and young people:-

- have a flying start in life;
- have a comprehensive range of education and learning opportunities;
- enjoy the best possible health and are free from abuse, victimisation and exploitation;
- have access to play, leisure, sporting and cultural activities;
- are listened to, treated with respect, and have their race and cultural identity recognised;
- have a safe home and a community which supports physical and emotional wellbeing; and
- are not disadvantaged by poverty.

These aims are reflected in section 25 of the Children Act 2004 and together strengthen 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 (referred to in the Act as children's services authorities) 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.

In fulfilling this duty a local authority is required to promote co-operation between itself and its partners, these being:-

- the police authority and the chief officer of police for a police area any part of which falls within the area of the local authority;
- a local probation board for an area any part of which falls within the area of the authority;
- a youth offending team for an area any part of which falls within the area of the authority;
- a local health board for an area any part of which falls within the area of the authority;
- an NHS trust providing services in the area of the authority; and
- the Assembly to the extent that it is discharging functions under Part 2 of the Learning and Skills Act 2000.

These partners are also placed under a statutory duty to co-operate with the local authority in making these arrangements. Welsh Assembly Government guidance circular 35/2006 *"Stronger Partnerships for Better Outcomes"* provides specific guidance on local co-operation under the Children Act 2004.

Section 28: Arrangements to Safeguard and Promote Welfare

Section 28 of the 2004 Act 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:-

- a local authority;
- a Local Health Board;
- an 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).

Welsh Assembly Government guidance circular *"Safeguarding Children: Working Together under the Children Act 2004"* provides specific guidance on arrangements to safeguard children under the Children Act 2004.

"The Education (Supply of Information Wales) Regulations 2003" requires employers of teachers and others whose work relates to the provision of education, and teacher supply agencies to report certain cases of professional incompetence to the General Teaching Council for Wales and certain cases of misconduct to the National Assembly for Wales.

Relevant Guidance

The following guidance issued by the Welsh Assembly Government may be relevant when drawing up policies and procedures to safeguard and promote the welfare of children in accordance with Section 175 of the Education Act 2002. All of these documents can be found in the Publications area of the Welsh Assembly Government website:
www.wales.gov.uk/educationandskills

Procedures for Whistleblowing in Schools and Model Policy - circular 36/2007

Shared Planning for Better Outcomes - circular 31/2007

Safeguarding Children: Working Together Under the Children Act 2004 - circular 12/2007

Inclusion and Pupil Support - circular 47/2006

Becoming a Qualified Teacher: Handbook of Guidance - circular 41/2006

Guidance for School Governing Bodies on Procedures for Complaints involving Pupils - circular 39/2006

Stronger Partnerships for Better Outcomes - circular 35/2006

Safeguarding and Protecting children and young people: A guide and good practice exemplification for awarding bodies - ACCAC/ QCA/CEA 2006

Teaching Drama: Guidance on Safeguarding Children and Child Protection for Managers and Drama Teachers - circular 23/2006

Educational Records, School Reports and the Common Transfer System - circular 13/2006

Reporting Cases of Misconduct or Professional Incompetence in the Education Service - circular 33/2005

Staff Disciplinary Procedures in Schools - circular 45/2004

Independent Schools Information and Registration - Information Document 13/2004

School Governing Bodies Complaint Procedures - circular 03/2004

Exclusion from Schools and Pupil Referral Units - circular 1(A)/2004

Community Focussed Schools - circular 34/2003

Respecting Others: Anti-bullying guidance - circular 23/2003

Personal and Social Education (PSE) and Work-Related Education (WRE) in the Basic Curriculum - circular 13/2003

Criminal Records Bureau: CRB Checks on Volunteers - circular 02/2003

Child Protection: Preventing Unsuitable People from Working With Children and Young Persons in the Education Service - circular 34/2002

Substance Misuse: Children and Young People - circular 17/2002

Sex and Relationships Education in Schools - circular 11/2002

Guidance on the Education of Children Looked After by Local Authorities - circular 02/2001

Health & Safety of School Pupils on Educational Visits - circular 2/1999. Available in hard copy only.
Please ring 029 2082 6066

The Use of Reasonable Force to Control or Restrain Pupils - circular 37/1998. Available in hard copy only.
Please ring 029 2082 6078

Supporting People with Medical Needs in Schools - circular 34/1997

The Education of Sick Children - circular 57/1994

Other publications

Personal and social education Framework for 7 to 19 year olds in Wales.

The Framework for the Assessment of Children in Need and their Families

The Common Assessment Framework

Children and Young People: Rights to Action

SEN Code of Practice

The Handbook of Good Practice for Children with Special Educational Needs

Special Education Needs: information for parents and carers of children and young people who may have special educational needs

All Wales Child Protection Procedures

Clywch: Report of the Examination of the Children's Commissioner for Wales into allegations of chills sexual abuse on a school setting

Think you know; An education initiative from the Child Exploitation and Online Protection Centre

The following documents are available through the Office of Public Sector Information website at www.opsi.gov.uk/

The Children Act 2004
The Education Act 2002
The Human Rights Act 1998
The data Protection Act 1998
The Children Act 1989

Regulations

The Children and Young People's Plan (Wales) Regulations 2007

Staffing of Maintained Schools (Miscellaneous Amendments) (Wales) Regulations 2007

Persons Providing Education at FE institutions in Wales (Conditions) Regulations 2007

Staffing of Maintained Schools (Wales) Regulations 2006

The Education Act 2002 (Commencement No 10 and Transitional Provisions) (Wales) Order 2006

The Independent School Standards (Wales) Regulations 2003

The Education (Supply of Information) (Wales) Regulations 2003

National Minimum Standards (NMS) for Residential Special Schools

National Minimum Standards for Boarding Schools