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Arolygiaeth Ei Mawrhydi dros Addysg
a Hyfforddiant yng Nghymru

Her Majesty's Inspectorate
for Education and Training in Wales

Supplementary guidance for inspecting safeguarding in schools and PRUs

Summer 2012



The purpose of Estyn is to inspect quality and standards in education and training in Wales. Estyn is responsible for inspecting:

- ▲ nursery schools and settings that are maintained by, or receive funding from, local authorities;
- ▲ primary schools;
- ▲ secondary schools;
- ▲ special schools;
- ▲ pupil referral units;
- ▲ independent schools;
- ▲ further education;
- ▲ adult community learning;
- ▲ local authority education services for children and young people;
- ▲ teacher education and training;
- ▲ work-based learning;
- ▲ careers companies; and
- ▲ offender learning.

Estyn also:

- ▲ provides advice on quality and standards in education and training in Wales to the National Assembly for Wales and others; and
- ▲ makes public good practice based on inspection evidence.

Every possible care has been taken to ensure that the information in this document is accurate at the time of going to press. Any enquiries or comments regarding this document/publication should be addressed to:

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What is the purpose?

This provides further guidance for inspectors to use for reference during inspection alongside the sector guidance for inspection, to support specific lines of enquiry.

For whom is it intended?

For all inspectors of schools and Pupil Referral Units

From when should the guidance be used?

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Introduction

This supplementary guidance aims to support inspectors as necessary in evaluating schools' safeguarding arrangements when carrying out inspections. It should be used for reference during inspection alongside Estyn's published policy and procedures'.

This guidance does not deal with how inspectors should deal with allegations about safeguarding received during inspection. Inspectors must be familiar with Estyn's Policy and Procedures for Safeguarding which covers children, young people and vulnerable adults. All inspectors should be aware of what to do in the event of receiving allegations about safeguarding and actions are outlined in this document. You can find a copy of the document on Estyn's website at <http://www.estyn.gov.uk/download/publication/190608.6/estyn-policy-and-procedures-for-safeguarding-2011/>

It is also essential that inspectors take account of Welsh Government Circular 5/2008 'Safeguarding Children in Education'. In addition, inspectors of independent schools also need to take account of the Independent School Standards (Wales) Regulations 2003.

The proposals in the Protection of Freedoms Bill currently progressing through Parliament, will eventually affect some of the government requirements referred to in this guidance. Further guidance will be issued once the changes are confirmed, covering in particular the nature of pre-recruitment checks that schools will be required to make in future, as well as setting out the conditions where CRB disclosure certificates will no longer be applicable.

Key telephone numbers

Inspectors should contact the relevant sector lead or Assistant Director with queries about evaluating schools' safeguarding arrangements.

In the event of concerns or queries in relation to receiving allegations about safeguarding the following telephone numbers are available:

Estyn's lead officer for safeguarding: 02920 446482 (also available out of office hours)

Estyn's deputy officer for safeguarding: 02920 446484 (also available out of office hours)

Estyn's main office (during office hours): 02920 446446

Definition of safeguarding

All schools, including independent schools, have a statutory duty to exercise their functions with a view to safeguarding and promoting the welfare of their learners.

Safeguarding and promoting the welfare of children is concerned with:

- 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.

Everyone who works in education 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 these, 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.

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.

Safeguarding 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 Government has issued guidance. There may also be other safeguarding issues that are specific to the local area or population.

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

Estyn's Common Inspection Framework

Estyn's Common Inspection Framework places high priority on safeguarding and promoting the welfare of learners, and it will always be a line of inquiry.

Reporting on safeguarding

Key Question 1 is concerned with outcomes and it is in two parts. The first is about the standards that pupils achieve. The second part is about wellbeing and includes:

- 1.2.1 attitudes to keeping healthy and safe;
- 1.2.2 participation and enjoyment in learning, including behaviour and attendance;
- 1.2.3 community involvement and decision making; and
- 1.2.4 social and life skills.

It is here that inspectors will evaluate and report on the impact of the school's provision for safeguarding and promoting the welfare of pupils.

Most of the comments on the school's provision for safeguarding and promoting welfare will be in Key Question 2, which is about provision, especially in the section of this key question about care, support and guidance (2.3). The care, support and guidance section contains:

- 2.3.1 provision for health and wellbeing, including spiritual, moral, social and cultural development;
- 2.3.2 specialist services, information and guidance;
- 2.3.3 safeguarding arrangements; and
- 2.3.4 additional learning needs.

The aspects of safeguarding and promoting the welfare of pupils that can be found in 2.3.1 **provision for health and wellbeing, including spiritual, moral, social and cultural development** include:

- child protection;
- health and safety;
- bullying;
- harassment and discrimination;
- racist abuse;
- drug and substance abuse;
- pupils with medical conditions;
- sex and relationships education;
- first aid;
- safety on educational visits;
- internet safety;
- welfare of pupils on extended vocational placements;
- issues specific to a local area;
- school security; and
- the management of pupil discipline including physical intervention and restraint.

Section 2.3.3 **safeguarding arrangements** concentrates on the effectiveness of the school's policies and procedures for safeguarding. It includes the consideration of the school's policy and procedures for child protection.

The needs of pupils with medical conditions will be included in section 2.3.4 **additional learning needs**.

Key Question 3 is about leadership and management. This includes:

- strategic direction and the impact of leadership; and
- governors or other supervisory boards.

A school's leaders and managers should be clear about their statutory responsibilities regarding safeguarding and the steps they are taking to develop good practice beyond the statutory minimum. The governing body is accountable for ensuring that the school has effective policies and procedures in place in accordance with the Welsh Government's guidance, and is monitoring the school's compliance with this. It is the governing body's responsibility to ensure that safe recruitment checks are carried out in line with statutory requirements. There is further information on this in Annexes 1 and 2.

If the school does not have effective policies and procedures for safeguarding and promoting the welfare of pupils, this will influence judgements made about the quality of leadership and management in the school.

Education with boarding or residential provision

Where education has boarding provision or is linked to a residential setting, Estyn inspectors must liaise with Care and Social Services Inspectorate Wales (CSSIW) to ensure that the provision contributes to boarders' or residents' needs in relation to their safety.

Guidance for inspectors in judging the effectiveness of safeguarding

Pre-inspection evidence

Inspectors will use a wide range of evidence. Before the inspection, in relation to safeguarding and promoting welfare, the lead inspector will consider:

- the school's self-evaluation report, especially the sections on 1.2 and 2.3;
- the Self-evaluation Form for Safeguarding and Child Protection completed by the school;
- the local authority report on the school;
- the previous inspection report;
- data on aspects of behaviour such as exclusions;
- the school's policies for safeguarding and promoting welfare, including the child protection policy;

- responses to the pupils' questionnaires, in particular the responses to questions about feeling safe, bullying, having someone to talk to if worried, keeping healthy and taking regular exercise;
- responses to the parents' questionnaires, especially the questions about encouragement to be healthy and take exercise, being safe and receiving the additional support for any particular needs;
- written information from parents or other partners; and
- any complaints Estyn may have received.

Inspectors should take particular account of the school's context, including information on the:

- the number of children on the child protection register;
- the number of refugees or asylum seekers;
- the number of looked after children; and
- exclusions and transfers of pupils.

Planning the inspection

Responsibility for inspecting safeguarding can be allocated to any team member, including the peer inspector and lay inspector. It may be that different inspectors are responsible for different aspects of safeguarding and promoting welfare as they occur in more than one quality indicator, for example in 1.2 and 2.3 as well as in aspects of leadership and management in Key Question 3. As in all inspections, the reporting inspector takes on overall responsibility for the conduct of the inspection and needs to monitor the work of the inspector(s) taking the lead on issues concerned with safeguarding and promoting the welfare of learners, particularly those about child protection.

Safeguarding will always be a line of inquiry. The reporting inspector will need to consider how effectively the school has evaluated safeguarding and promoting welfare in their self-evaluation report. In the light of this evaluation, and any emerging lines of enquiry, the reporting inspector will need to allocate time to gather enough evidence to support the team's judgements. They may include questions specific to safeguarding and promoting welfare at meetings with:

- the headteacher or principal;
- representative(s) of the governing body;
- staff;
- parents; and
- pupils.

Inspectors may also arrange to meet with the designated person with responsibility for child protection if not the headteacher or principal.

Inspection activity

Inspection activity may include:

- scrutiny of policies and procedures, in particular the policies for child protection, health and safety, bullying and risk assessment on school trips;
- scrutiny of evidence listed in the Self-evaluation Form for Safeguarding and Child Protection completed by the school;
- checking procedures for safe recruitment of staff, including records of CRB and ISA checks;
- checking child protection training records;
- interviewing the designated person with responsibility for child protection;
- considering the school's procedures to ensure the security of the site and buildings; and
- asking pupils in listening to learners session, in lessons and around the school about whether pupils feel safe and free from bullying.

It is important for inspectors to establish if **all** staff are aware of the school's policies and procedures, for example by asking staff on duty at break times about the school's child protection procedures.

All schools will complete a self-evaluation form in relation to safeguarding and child protection prior to inspection. This form provides a useful overview of the issues which need to be taken into consideration when evaluating the school's policy and procedures for safeguarding, including child protection. The self-evaluation form for safeguarding and child protection can be found on the Estyn website.

Judging safeguarding

Inspectors need to consider the range of activities that the school has in place to ensure the safety of its pupils. The school **must** conform with legal requirements as a starting point and they **should** follow any guidance from the Welsh Government.

The fundamental question is whether inspectors are satisfied that pupils are safe in the school. Safeguarding is likely to be a serious cause for concern if there are issues such as:

- staff being unclear about their responsibilities and what they need to do to protect pupils;
- missing CRB checks and/or incomplete records;
- inadequate arrangements for supervising visitors or volunteers who do not have CRB checks; and
- the school not dealing with bullying effectively.

Annex 1: Criminal Record Bureau (CRB) disclosures: repeat checks and portability

There is widespread misunderstanding about the portability of enhanced CRB disclosure certificates that have led to schools carrying out unnecessary routine requests for renewed checks. The following sets out the current position in relation to schools as to when checks need to be in place before an employee can start work.

- CRB checks were strongly recommended for all employees who have regular contact with children if they were employed after March 2002. However, the only requirement for those appointed before this date is that they must have been List 99 checked.
- CRB checks became mandatory for the entire maintained schools' workforce from 12 May 2006 (September 2003 for independent schools). Employees who took up post from this date must have an enhanced CRB disclosure.
- **No further CRB checks are required** for any staff unless the person has a break in service of more than three months. There is no requirement for staff employed before March 2002 to have retrospective CRB checks as long as they have been in continuous service. In this context, continuity means no break of service of longer than three months. However, prior to 2002, there was a requirement for all staff who work with children and young people to have to be checked against List 99, and evidence of this should be checked.

All qualified teachers employed in maintained schools in Wales, including those appointed prior to 2002, must be registered with GTCW. The Independent Safeguarding Authority provides GTCW with regular updates on barred individuals. GTCW confirm that a GTCW registered teacher may have a criminal record but it would not be for a child protection-related offence.

Visiting staff

Staff such as educational psychologists, supply teachers, trainee teachers, nurses, sports coaches and inspectors should be CRB checked by their 'providing' organisation, for example the supply agency, the university, or local authority.

It is sufficient for schools to seek written confirmation that appropriate checks, including CRB checks, have been carried out for these people (most commonly on appointment) and by whom (most commonly the relevant human resources department), and to confirm the identity of these visitors. Written confirmation may take the form of a public statement on the providing organisation's website. In most circumstances, checks should be carried out prior to work commencing.

Part-time staff may use the same CRB check for two or more posts as long as they are at a similar level **and** the school has satisfied themselves about their veracity and appropriateness.

Governors

Under the current provisions of 'Safeguarding Children in Education', anyone working as a governor of a school, which involves regular work in the presence of, or care for,

children, or training, supervising or being in sole charge of children must have an enhanced CRB check (if appointed after April 2002).

'Further to Schedule 4 of Safeguarding Vulnerable Groups Act 2006, it is strongly recommended and is best practice for anyone working as a governor of an educational institution (including a school and maintained nursery schools) to have an enhanced CRB check. If a governor refuses to complete a CRB application, they can be disqualified from holding office in accordance with paragraph 12 of schedule 6 to the Government of Maintained Schools (Wales) Regulations 2005'.

Under the proposed provisions of the Protection of Freedoms Bill, governors who volunteer to work with children will be **exempt** from this requirement as long as they are **appropriately supervised** by a member of staff who has undergone such checks.

Moving between schools and local authorities

Since September 2006 supply agencies have been able to pass CRB checks between other school supply agencies and between individual schools.

- If an employee has been CRB checked, **there is no statutory requirement** that another CRB check is carried out before taking up a job in a different school or even in a different local authority, provided they have continuous service and the check is at the correct level for the new post.
- The same applies to someone who may not have a CRB check due to being in post before 2002, that is, there is no statutory requirement for further checks to be carried out.
- It is up to the receiving organisation to carry out a risk assessment to assess whether the check is at the correct level for the current role, whether it is accurate and whether they trust the previous organisation to have carried out the check efficiently.
- The school or local authority should ask for evidence, from the previous school or local authority, that the check was undertaken. Some schools and local authorities are reluctant to accept transferring staff without requesting a fresh CRB disclosure certificate because they believe that Estyn would be critical of such arrangements. Inspectors should avoid giving any impression that Estyn considers it good practice to request fresh CRB disclosure certificates routinely whenever a member of staff is recruited directly from another school without a break in service. Schools should be encouraged to risk assess each case individually and be prepared to demonstrate the basis for their decisions.
- In all-day educational establishments, new members of staff can take up their posts prior to a full CRB check as long as they work under the close supervision of a colleague who has such clearance.

The regulations above apply to all schools, including pupil referral units. Social care and residential settings are subject to the national minimum standards which require more stringent requirements in respect of safeguarding checks. In such settings, staff **can** take up their posts before CRB clearance has been received, but it must have been applied for and the member of staff awaiting clearance must be supervised when in contact with young people.

In the case of trainees on initial teacher education courses, it is the initial teacher education school's responsibility, not the school's, to ensure that appropriate recruitment checks are made. In the event of a delay in receiving disclosures from the CRB, the Welsh Government's guidance gives headteachers discretion to allow trainees to start working in a school subject to a satisfactory check of Independent Safeguarding Authority Children's List check and completion of other normal recruitment procedures. Training schools should keep headteachers fully informed of the progress of applications for disclosures, since schools will want to maintain closer supervision of trainees who have not yet received enhanced clearance. Schools must be satisfied that checks have indeed been done.

The situation is different for trainees on an employment-based teacher training route. They are employed by the school and should therefore be cleared by the school and in the same way as other directly employed staff.

Annex 2: Vetting and Barring Scheme: criminal offences related to new Independent Safeguarding Authority requirements

The following guidance supplements Welsh Government Circular 34/2002: 'Child Protection: Preventing Unsuitable People from Working with Children and Young Persons in the Education Service'.

The Vetting and Barring Scheme (VBS) was launched in October 2009. The three barring lists, Protection of Children Act (PoCA), the Protection of Vulnerable Adults (POVA) and List 99, were replaced by the creation of two new barred lists administered by the Independent Safeguarding Authority. The mechanism for making a barred list check through Criminal Records Bureau (CRB) remains the same, although it will no longer be possible to check a list without requesting an enhanced CRB check.

The Protection of Freedoms Bill will significantly restrict the original proposals of the Safeguarding Vulnerable Groups Act. However, no part of the act that has already been implemented has yet been withdrawn. Since 12 October 2009 it is a criminal offence for employers:

- to take on an individual in an Independent Safeguarding Authority **regulated** activity such as schools or childcare provision whom they know to have been barred from such an activity; and
- not refer to the Independent Safeguarding Authority details of anyone who is removed from regulated activity or who leaves while under investigation for allegedly causing harm or posing a risk of harm.

In practice this means that employers must refer information to the Independent Safeguarding Authority when they have dismissed an individual or an individual resigns, because they harmed or may harm a child or vulnerable adult.

If, in the course of the normal inspection of safeguarding within any Independent Safeguarding Authority¹ **regulated** provision, an inspector suspects a school of not complying with either of the above they should bring this to the school's attention and ask them to take immediate action.

Inspectors should record all the evidence on an evidence form and ensure that enough detail is included on the Reporting JF for that inspection. The reporting inspector should then email a copy of the Reporting JF together with some contextual information to Estyn's safeguarding email address at safeguarding@sharepoint.estyn.gov.uk. Dependent on the circumstances of the case and the action taken by the school, inspectors should consider whether this information will affect their judgements on safeguarding, the effectiveness of leadership and management and the overall effectiveness of the provision. Inspectors may also wish to consult Estyn's lead officer for safeguarding. Schools and inspectors can obtain further information on referrals at www.isa-gov.org.uk.

Under provisions in the Protection of Freedoms Bill, volunteers who are recruited to work with children are not be eligible for CRB or barred list checks unless they work unsupervised with the children. The DfE intends to consult on the definition and nature of supervision that would satisfy the conditions for this exemption. The Government intention is that this should then become a matter for local agreement, informed by published guidance. Inspectors should discuss with schools the risk assessments they carry out when recruiting volunteers to work with children and the nature of supervision arrangements they make if they choose not to request CRB disclosure certificates. Supervision should be by a member of staff who is defined as working in regulated activity, and who has therefore been subject to appropriate recruitment checks.

¹ www.isa-gov.org.uk