

Welsh Government Legislation and Guidance

Children, Families and Adults

A). Legislation passed through UK Parliament 2007 – 2013

1). Children and Families (Wales) Measure 2010

The Measure came into force on 10 February 2010 and makes statutory provision to tackle poverty in Wales. It also makes statutory provision with regards to play and participation, childminding and day care regulations and also Integrated Family Support Teams.

The Measure requires Welsh Authorities, including Welsh Ministers and local authorities, to prepare and publish a strategy for contributing to the eradication of child poverty in Wales. The Measure reflects the Welsh Governments understanding that in order to make faster progress on tackling child poverty, there is a need to galvanise and draw on the expertise and experience of a wide range of public bodies in Wales.

Tackling child poverty is complex and involves a range of inter-related policy solutions. The Public and Third sectors can make a greater impact by working together on tackling child poverty in Wales, and this is crucial given these challenging times of fiscal climate and impact of welfare reforms. No one policy approach or single organisation will be able to deliver the solutions to what are often deep seated, intergenerational social issues.

2). Mental Health (Wales) Measure 2010

The Mental Health (Wales) Measure is a piece of law made by the National Assembly for Wales and it has similar legal status to an Act of Parliament.

The Measure introduces a number of important changes to the current legislative arrangements in respect of the assessment and treatment of people with mental health problems.

The Mental Health (Wales) Measure 2010 deals with accessing and receiving care and treatment within primary and secondary mental health services. The intended effect of the Measure is to:

- Expand the provision of local primary mental health support services (Part 1)
- Ensure that all service users within secondary care have a care coordinator and a care plan (Part 2)
- Provide a mechanism for re-access to secondary care services for previous service users (Part 3)
- Expand statutory independent mental health advocacy to certain 'short term' sections of the Mental Health Act 1983 and to non-detained inpatients (Part 4)

What does the Mental Health (Wales) Measure aim to achieve?

The Measure has five broad policy intentions:

- to provide assessment of a person's mental health and, where appropriate, provide treatment for their mental ill-health within primary care, by placing a statutory duty for Health Boards and Local Authorities to deliver local primary mental health support services across Wales
- to create statutory requirements around care and treatment planning and care coordination for all persons receiving care and treatment with secondary mental health services

- to require secondary mental health services to have in place arrangements to ensure the provision of timely access to assessment for previous service users
- to extend the group of 'qualifying patients' under the Mental Health Act 1983 entitled to receive support from an Independent Mental Health Advocate (IMHA), so that all patients subject to the formal powers of that Act are able to receive IMHA support if they request it
- to enable all patients receiving care and treatment for mental health problems in hospital to have access to independent and specialist mental health advocacy

B) Welsh Legislation passed by National Assembly for Wales 2014 to present

1). Social Services and Well-being (Wales) Act 2014

The Social Services and Well-being (Wales) Act received Royal Assent and became law on 1 May 2014. It came into force on 6 April 2016.

The Act provides the legal framework for improving the well-being of people who need care and support, and carers who need support, and for transforming social services in Wales.

It responds to the call of the Law Commission to replace a complex patchwork of Social Care legislation into one Act. It also responds to the Sustainable Social Services: a framework for action and the challenges for Social Services that were detailed within this document. It is the most substantial piece of primary legislation enacted by the Assembly and will have a profound impact on the provision of social care in Wales. It is materially different to the English Act (the Care Act 2014) and will create a quite distinct social care legal jurisdiction in Wales. The 'headline' difference between the Acts is that the Welsh Act applies to people 'in need' of any age and their carers, whereas the English Act is largely confined to the needs of 'adults in need' and their carers.

The Social Services and Well-being Act 2014 repeals nearly all of Part 3 of the Children Act 1989 – provision of services for children and their families. 29 regulations have been passed under the Social Services and Well-being (Wales) Act 2014. This represents a wholesale rewriting of Social Care legislation.

The Social Services and Well-being (Wales) Act 2014 takes a preventative approach – building resilience and independence in individuals, families and communities in order to lessen the need for intensive managed support through better access to information, advice and community resources, more well-being support and increased levels of early intervention/ Prevention.

Overarching duties

- Views wishes and feelings of individuals
- Respecting dignity
- Participation
- Characteristics, Culture and belief
- Adults best placed to judge their own well-being
- Promoting independence
- Upbringing of the child by the child's family, in so far as doing so is consistent with the well-being of the child
- Views wishes and feelings of those with parental responsibility, in so far as is practical and consistent with the child's well-being.

A summary of the Social Services and Well-being (Wales) Act 2014 is attached to avoid duplicating work already done by others.

Guidance issued under Social Services and Well-being (Wales) Act 2014

i). Wellbeing Statement and National Outcomes Framework

Everyone is entitled to well-being and everyone has a responsibility for their own well-being, but some people need extra help to achieve this.

To define what well-being means to the individual, and understand whether this is being achieved, the Welsh Government has published a well-being statement.

Defining what is meant by well-being is about securing an approach based on working in partnership with people, giving people a stronger voice and greater control over their lives, and empowering people to achieve their own well-being with the appropriate level of care and support.

The well-being statement builds on the definition of well-being in Section 2 of the Act. For the purposes of the Act, Section 2 defines well-being in relation to a person in eight aspects of their life:

- physical and mental health and emotional well-being;
- protection from abuse and neglect;
- education, training and recreation;
- domestic, family and personal relationships;
- contribution made to society;
- securing rights and entitlements;
- social and economic well-being; and
- suitability of living accommodation.

National well-being outcomes that are to be achieved for people who need care and support and carers who need support have been developed for each of the eight aspects of well-being. Some outcomes describe the responsibilities that people themselves have to undertake to help achieve their own well-being.

The outcomes were developed through extensive engagement with people who use care and support services to identify what matters to them

ii). Working Together to Safeguard People.

This guidance is split into 8 codes of practice and a statutory guidance document on Partnership Arrangements. Guidance on Working Together to Safeguard People is split into 6 volumes, 2 of which are currently under consultation.

Part 2 Code of Practice (General Functions)

Part 3 Code of Practice (Assessing the needs of individuals)

Part 4 Code of Practice (Meeting needs)

Part 4 and 5 Code of Practice (Charging and Financial Assessment)

Part 6 Code of Practice (Looked After Children)

Part 7 Working Together to Safeguard People

Volume 1 – Introduction and Overview

Volume 2 – Child Practice Review

Volume 3 – Adult Practice Reviews

Volume 4 – Adult Protection and Support Orders

Volume 5 – Handling Individual Cases to Protect Children at Risk (consultation)*

Volume 6 – Handling Individual Cases to Protect Adults at Risk (consultation)*

Part 8 Code of Practice on the role of the Director of Social Services (Social Services functions)

Part 9 Statutory Guidance (Partnership Arrangements)

Part 10 Code of Practice (Advocacy)

Part 11 Code of Practice (Miscellaneous and General)

*CCPAS will provide more detailed information regarding this key guidance once this has been finalised by Welsh Government. Regular updates will be given regarding the rewrite of the All Wales Child Protection Procedures being undertaken this year.

3). Local Government (Wales) Act 2015

The Local Government (Wales) Act 2015 received Royal Assent on 25 November 2015.

The provisions of the Act will allow for preparatory work to enable a reduction in the number of Principal Local Authorities in Wales, including provisions to facilitate early voluntary mergers of two or more Principal Local Authorities by April 2018. It will also allow for amendments of existing local government law as it applies in relation to Wales.

Regionalisation of Safeguarding Boards has been completed but has been a complex process. The merger of Principal Local Authorities is still undergoing lengthy discussions and is even more complex due to the variety of regional footprints and consortiums for the delivery of service.

4). Regulation and Inspection of Social Care (Wales) Act 2016

The Social Services and Well-being (Wales) Act 2014 changed the foundation of the social care sector. The Regulation and Inspection of Social Care (Wales) Act is the next step in making social services in Wales sustainable.

i). What is the purpose of the act?

The Act builds on the success of regulation in Wales and reflects the changing world of social care. It places service quality and improvement at the heart of the regulatory regime and strengthens protection for those who need it. Regulation will move beyond compliance with minimum standards, and focus more on the quality of services and the impact which they have on people receiving them.

ii).What the Act provides

- establishes a regulatory regime which is consistent with the changes which are being delivered by the Social Services and Well-being Act 2014
- contributes to more effective public services by creating a regulatory regime which enables and empowers both citizens and service professionals
- provides a robust and meaningful response to the clear lessons which have been learnt from the exposure of failures in the system - most recently the Flynn Review
- renames the Care Council for Wales as Social Care Wales with a broadened remit by April 2017

iii). Social Care Wales

Social Care Wales, created under the Regulation and Inspection of Social Care (Wales) Act, will build on the successful foundations laid by the Care Council over the past 15 years. And, for the first time, it will bring together workforce regulation, workforce development, service improvement and research in one organisation.

Social Care Wales will:

- set standards for the social care workforce - to make them accountable for their work, and take firm action where standards have not been met;
- set and promote standards for learning and development – to ensure the social care workforce have the knowledge and skills to provide the best care and support;
- provide leadership to the sector – to help them deliver and improve the overall standard of social care in Wales.
- work with others - to improve services for areas seen as a priority; and
- influence – by working with others to shape and determine the research agenda

NEW APPROACHES SOCIAL CARE WALES

FUNCTIONS	WHAT WE DO NOW...	WHAT SOCIAL CARE WALES WILL DO IN ADDITION...
Regulate the workforce	Register: <ul style="list-style-type: none"> - social workers - social work students - residential child care managers and workers - adult care home and home care managers 	Register home care and adult care home workers, and potentially other groups
Develop the social care and early years workforce	Provide a range of support and solutions for developing the workforce e.g. qualifications, learning resources etc	Expand this work and agree priorities for funding social care training
Ensure consistent standards of training	Regulate the training of social workers	Regulate social care training
Provide an information hub	Provide workforce data and an information and learning hub for the Social Service and Well-being (Wales) Act	Provide an information hub for the whole of social care in Wales for partner organisations, practitioners and the public
Research and development	Commission some research into the workforce and workforce planning	Set priorities and commission research into social care to inform practice and advice across Wales
Improve services	Contribute to wider projects for improving services	Work with others to improve specific care services identified as priorities across the full span of social care in Wales

Children only

A). Legislation passed through UK Parliament 2007 – 2013

1). Rights of Children and Young People (Wales) Measure 2011

On January 18th 2011 this landmark piece of legislation, the Rights of Children and Young Persons (Wales) Measure was passed by the National Assembly for Wales with cross-party unanimous support.

As of the 1st May 2012 under the new Children's Rights Scheme, Ministers must show due regard to the rights in the UNCRC when making decisions about proposed new policies or legislation, or about reviewing or changing existing policies.

From the 1st May 2014, this duty applied to all of Welsh Minister's functions. It will also bring in the duty to promote knowledge and understanding of the UNCRC.

This ground breaking legislation is unique within the UK and goes a long way to incorporate the UNCRC within the limits of devolved powers in Wales.

B) Welsh Legislation passed by National Assembly for Wales 2014 to present

1). Child Practice Review (Guidance under Social Services and Well-being Act 2014)

The Child Practice Review framework replaces Child Serious Case Reviews.

The framework has a number of important features which strengthen it from the previous serious case review system:

- it involves agencies, staff and families in a collective endeavour to reflect and learn from what has happened in order to improve practice in the future, with a focus on accountability and not on culpability;
- it has the potential to develop more competent and confident multi-agency practice in the long term, where staff have a better understanding of the knowledge base and perspective of different professionals with whom they work;
- it strengthens the accountability of managers to take responsibility for the context and culture in which their staff are working and to see that they have the support and resources they need;
- it recognises the impact of the tragic circumstances of non-accidental child deaths or serious harm on families and on staff, and provides opportunities for serious incidents to be reviewed in a culture that is fair and just;
- it takes a more streamlined, flexible and proportionate approach to reviewing and learning from what are inevitably complex cases;
- it allows a more constructive and appropriate use of resources than in the previous system and works to shorter timescales;
- it draws on learning from other related review processes and increases compatibility with different review systems;
- it focuses on key learning identified through the review process which results in relevant recommendations and action to improve future practice, recorded in anonymised reports which are published by Boards.

The development of these arrangements has been informed by extensive discussion, consultation, feedback and testing through workshops of stakeholders, and pilots of child practice reviews by several Boards. They have all made an invaluable contribution to developing the detail of the guidance. In addition, this version has been informed by the findings of an independent review undertaken on behalf of the Welsh Government by Cordis Bright, into the implementation of the child practice review framework.

2) Education (Wales) Act 2016

The Education (Wales) Act received Royal Assent on 12 May 2014.

The Act establishes the Teaching Workforce Council in place of the General Teaching Council for Wales. It makes provisions on the registration of teachers and other school staff, to include Further Education teachers and support staff.

The Act requires the Welsh Government to publish a code of conduct for education workers. It also gives the Welsh Government powers to make regulations on standards

This Act will also give Ministers powers to standardise school term dates across Wales and makes provision on the appointment of education inspectors.

Adults only

A). Legislation passed through UK Parliament 2007 – 2013

None

B) Welsh Legislation passed by National Assembly for Wales 2014 to present

1). Adult Protection and Support Orders (Guidance under Social Services and Well-being Act 2014)

APSOs are to be used to enable an authorised officer, and any other person specified in the order, to speak to an adult suspected of being at risk of abuse or neglect in private, to establish whether the adult can make decisions freely, to assess whether the person is an adult at risk and to establish if any action should be taken.

Importantly, Adult Protection and Support Orders do not grant a power of removal. The principle is that the wishes of an adult at risk should be capable of being freely expressed and that they should be respected.

The purposes of an APSO are:

- to enable the authorised officer, and any other person accompanying the officer,
- to speak in private with a person suspected of being an adult at risk;
- to enable the authorised officer to ascertain whether that person is making decisions freely; and
- to enable the authorised officer properly to assess whether the person is an adult at risk and to make a decision as required by section 126(2) of the Social Services and Well-being (Wales) Act 2014 on what, if any, action should be taken.

APSOs are civil orders that can be sought by an authorised officer. An authorised officer must be a person authorised by a local authority for the purpose.

When an APSO is in force, the authorised officer, a constable and other persons specified in the order may enter premises where an adult at risk is living for the purposes set out above.

APSOs can be made by a justice of the peace if satisfied that:

- the authorised officer has reasonable cause to suspect that a person is an adult at risk;
- it is necessary for the authorised officer to gain access to the person in order properly to assess whether the person is an adult at risk and to make a decision on what, if any, action should be taken;
- making an order is necessary in order to fulfil the purposes set out in section 127(2); and
- exercising the power of entry conferred by the order will not result in the person being at greater risk of abuse or neglect.

The Adult Protection and Support Order (Authorised Officer) (Wales) Regulations 2015 set restrictions on who can act as an authorised officer. These Regulations provide for an officer of the local authority where the adult at risk resides to act as an authorised officer. Where this is not practical the authorised officer should be an officer from a local authority in the Safeguarding Board area and if this is not practical, an authorised officer must be an officer from a local authority in Wales.

Local authorities will need to be clear as to who has responsibility to act on behalf of the authority and be able to provide evidence of authorisation.

The role of the authorised officer

An authorised officer is the person that may apply to a justice of the peace for an APSO. The authorised officer should prepare the application form including the grounds for the application and the information required to be included in the order as set out at section 127(5) and (6) of the Act. The role includes liaison with the local authority legal service to make the application to the court and possible attendance to give evidence about the need in particular cases.

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- it strengthens the accountability of managers to take responsibility for the context and culture in which their staff are working and to see that they have the support and resources they need;
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The development of these arrangements has been informed by extensive discussion, consultation, feedback and testing through workshops of stakeholders, and pilots of child practice reviews by several Boards. They have all made an invaluable contribution to developing the detail of the guidance. In addition, this version has been informed by the findings of an independent review undertaken on behalf of the Welsh Government by Cordis Bright, into the implementation of the child practice review framework.

3) Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015

In 29 April 2015, the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Bill received Royal Assent and became an Act. The legislation aims to improve the Public Sector response in Wales to such abuse and violence and was subject to rigorous scrutiny through the legislative process.

The Act will amongst other things:

- Improve arrangements to promote awareness of, and prevent, protect and support victims of gender-based violence, domestic abuse and sexual violence
- Introduce a needs-based approach to developing strategies which will ensure strong strategic direction and strengthened accountability
- Ensure strategic level ownership, through the appointment of a Ministerial Adviser who will have a role in advising Welsh Ministers and improving joint working amongst agencies across this sector

- Improve consistency, quality and join-up of service provision in Wales.

The Welsh Government has published the National Training Framework which will help professionals to deal with disclosures of abuse and ensure consistent training is available for specialist professionals. A key part of the Framework is the e-learning package, published in 2015. This e-learning will raise the awareness of a quarter of a million Welsh public service workers over the next 2 years.

The Welsh Government is developing "Ask and Act". Our aim is that this will require professionals like Health visitors and Housing Officers to identify symptoms of abuse and to ask clients if they are being abused.

"To enable us prevent violence and abuse in the future, we have to focus on children, to make sure they understand what constitutes a healthy relationship and how to recognise the symptoms of unhealthy relationships. So far we have published a Whole Education Approach Good Practice Guide, produced by Welsh Women's Aid and awareness raising guidance for school governors, published in March 2016."

The Welsh Government has taken significant steps to reduce the incidence, and to protect victims, of Female Genital Mutilation, Forced Marriage and Honour Based Violence.

"We know that working with, and listening to, survivors is a crucial element of all that we do and their experiences must shape our policy and services. Consequently, we are also working with victims and survivors to help us shape our ongoing approach."

"For the future, we know that a big part of tackling violence against women, domestic abuse and sexual violence will be to increase our focus on holding perpetrators to account and providing opportunities to change behaviours. We will work with relevant organisations on guidance for working with perpetrators."

Future Generations

A). Legislation passed through UK Parliament 2007 – 2013

None

B) Welsh Legislation passed by National Assembly for Wales 2014 to present

i). Well-being of Future Generations (Wales) Act 2014

This Act is about improving the social, economic, environmental and cultural well-being of Wales.

The Act will make the public bodies listed in the Act think more about the long term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach.

This new law will mean that, for the first time, public bodies listed in the Act must do what they do in a sustainable way.

Public bodies need to make sure that when making their decisions they take into account the impact they could have on people living their lives in Wales in the future.

It will expect them to:

- work together better
- involve people reflecting the diversity of our communities
- look to the long term as well as focusing on now
- take action to try and stop problems getting worse - or even stop them happening in the first place.

The Act establishes a statutory [Future Generations Commissioner for Wales](#) (external link), whose role is to act as a guardian for the interests of future generations in Wales, and to support the public bodies listed in the Act to work towards achieving the well-being goals.

The Act also establishes Public Services Boards (PSBs) for each local authority area in Wales. Each PSB must improve the economic, social, environmental and cultural well-being of its area by working to achieve the well-being goals.

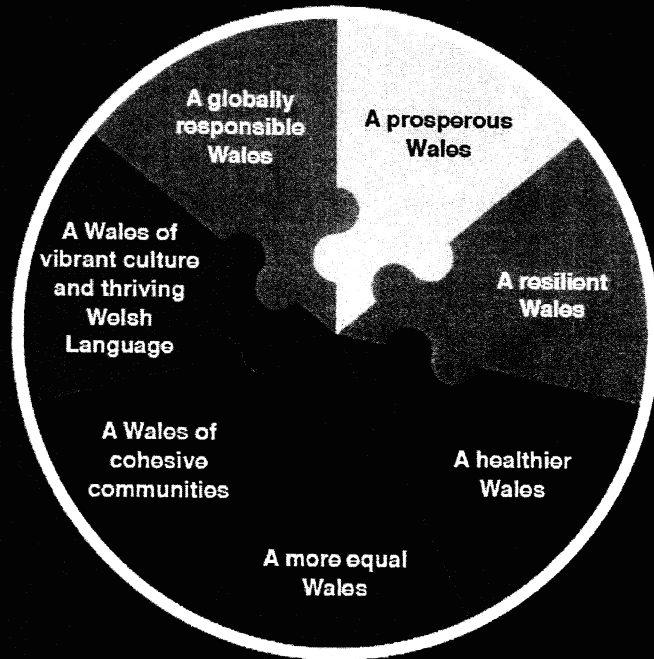
Whilst this legislation may not immediately seem to be relevant to Safeguarding, the focus of this legislation is Well-being which covers many aspects of safeguarding such as protection from abuse and neglect, and physical and mental health and emotional well-being.

How do the Social Services and Well-being Act (SSWA) and Well-being of Future Generations Act (WFG Act) work together to make Wales a better place?

The individual's well-being is a key part of the wider concept of well-being used in the WFG Act, which encompasses environmental, social, economic and cultural well-being. The WFG Act provides for a set of integrated well-being goals for Wales. In addition to a specific well-being goal of a 'healthier Wales', which describes a society in which people's physical and mental well-being is maximised, there are strong links to the aspirations of the SSWA in other goals such as 'a more equal Wales' and 'a Wales of cohesive communities'. In working to achieve these goals, each public body subject to the well-being duty is required to carry out sustainable development, and to this end, the WFG Act sets out a sustainable development principle. Overall, there is a common emphasis in both Acts on prevention, collaboration, integration, involvement and adopting a long term approach to the improvement of public services.

The work of the Future Generations Commissioner will radically change the way policy making and community needs assessment is undertaken in the public sector. The relevance here is in the opportunity for the Christian Community to engage with the public sector to highlight challenges and need within the communities in which we are based. The Christian Community also has the opportunity to be part of the solution to the challenges and needs of the communities in which we are based, such as poverty, aging populations, and adverse childhood experiences. We are strongly positioned to encourage participation in, and co-production of, solutions that build more resilient communities. This is a challenge to the Christian Community in Wales and will require us to adapt and work differently, in particular with an increased focus on co-production of solutions to these challenges.

Well-being Goals



"The Future Generations Act presents an opportunity to work differently and engage with others to develop innovative solutions to the challenges that we face"

Welsh Government
Taking Wales Forward (2016)

Further information on the work of the Future Generations Commissioner can be found at www.futuregenerations.wales