**Consultation Response Form**

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| **Organisation (if applicable):**  | This response has been prepared by academics at the Centre for Health and Social Care Law[[1]](#footnote-1), School of Law and Politics, Cardiff University. The Centre exists to promote research and its dissemination in the field of Health and Social Care Law. The Centre supports the Children’s Social Care Law in Wales website[[2]](#footnote-2) and the Nuffield Foundation funded research project, *Welfare Cases in the Court of Protection.[[3]](#footnote-3)* Academics at the Centre have particular expertise in child protection, children’s social care law, adult social care law, mental health law, mental capacity law, disability law and human rights. This response to the Welsh Government’s consultation has been led by Jason Tucker (Reader in Law, solicitor (non-practising)) and Dr Lucy Series (Research Associate), with contributions from Dr Julie Doughty (Lecturer in Law, solicitor (non-practising)), Sarah Coldrick (legal consultant AFA Cymru), William Seagrim (Lecturer in Law, barrister), Professor Phil Fennell (Professor of Mental Health Law), Dr Emily Kakoullis (Lecturer in Law), and Alison Tarrant (doctoral researcher). |
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| **Handling Individual Cases for Children and Adults at risk**  |
| **1. Is the guidance clear and easy to follow?**  |
| **Yes** ☐  | **No X**  | **Unsure** ☐  |
| Please comment: **General Comments – applicable to both consultation documents: status of the guidance**Our overriding observation is that both consultation documents – on handling cases concerning children, and on cases concerning adults – do not reflect legal and practice considerations that social care practitioners would need to be aware of in order to remain within the law when acting in cases with individuals at risk. Consequently, there is a risk that they would be unaware of steps that they are required to take by law, and this might result in unlawful practice and potential human rights violations for those they seek to protect, and their families.The status and purpose of the guidance is unclear.  The consultation website indicates that the status of the guidance is ‘statutory guidance’ issued under Part 7 (ss131 and 137) of the Social Services and Well-being (Wales) Act 2014. However, this is not clearly stated in the guidance itself. It is important that the guidance is clear about its status, and it needs to be clearly articulated whether it is mandatory or suggested good practice.Local authorities, designated officers, the police and relevant partners must ‘have regard’ to statutory guidance issued under s131. This is a weaker status than statutory guidance in England issued under s7 of the Local Authority and Social Services Act 1970 (LASSA), where local authorities must ‘act under it’. Departure from s7 LASSA statutory guidance must only be ‘with good reason, articulated in some identifiable decision-making process’.[[4]](#footnote-4) The status of this guidance, issued under s131, appears closer to what has traditionally been referred to as ‘practice guidance’. This guidance lacks the status of s7 LASSA guidance. Under practice guidance, occasional lacunae in compliance might be accepted by the courts, although a series of lapses would be capable of amounting to failure to have regard to the guidance.A much stronger source of guidance is the power of Welsh Ministers under s145 of 2014 Act to issue Codes of Practice in relation to social services functions, which, under Schedule 2 of the Act, include functions contained in the Children Act 1989.  For the guidance to have a similar status to s7 LASSA statutory guidance, it would need to be issued as a Code of Practice under s145. We would be concerned if the Handling Individual Cases to Protect Children and Adults at Risk documents were to be the sum total of the ‘statutory guidance’ applicable in Wales in relation to child protection procedures and adult safeguarding.  Previously, Wales has had the benefit of s7 LASSA statutory guidance relating to both interagency working/child protection investigations and the conduct of court proceedings relating to children (via ‘Safeguarding Children: Working Together Under the Children Act 2004’ and ‘The Children Act 1989 Guidance: Volume 1 Court Orders’), as well as in relation to safeguarding vulnerable adults (‘No Secrets’, 2000).  If this statutory guidance now only has ‘good practice’ status, there is an urgent need for a Code(s) of Practice to be formulated to address the current lacuna in enforceable statutory guidance.**Specific Comments – handling cases concerning children**We are concerned that Handling Individuals Cases to Protect Children at Risk document appears to conflate the reporting duty under section 130 Social Services and Well-being (Wales) Act 2014 and the duty to investigate under section 47 Children Act 1989.  The document seems to suggest that a local authority only has a duty to investigate child protection concerns if a referral is received under section 130 (which does not extend to referrals received from members of the public), whereas the section 47 duty is triggered regardless of the means by which the local authority is made of aware of the concerns about the child, and is not affected by the provisions of the Social Services and Well-being (Wales) Act 2014. **Specific Comments – handling cases concerning adults**Some paragraphs in the guidance require further attention. For example:**Paragraph 12** merely says ‘there are three separate components’, without stating what these are components *of*. Is this intended to clarify the s126(2) duty to enquire described in paragraph 11? If so, then we would suggest that there are four components not three. The key component of deciding whether to take action and if so what action is to be taken and by whom to take is missing from paragraph 12. It is not clear what further clarification paragraph 12 as currently drafted adds to paragraph 11.**Paragraph 20** says ‘Adults at risk… may want highly intrusive help’. We believe that the statement is unclear and requires clarification – is this intended to read ‘may **not** want highly intrusive help’, or is it expressed correctly and being set in contrast to cases where such help may not be wanted? **Paragraph 18** indicates that the agreement of the individual should be sought prior to reporting any concern to the local authority, but fails to clarify what action should be taken if the individual does not agree or would be placed at increased risk of harm if their agreement is sought. **Paragraph 56** seems to say that where an individual ‘lacks capacity’ their agreement should not be sought before discussing a report about them with other agencies. We question how it can be known that the individual lacks mental capacity in relation to the decision to discuss a report with other agencies unless practitioners have first attempted to discuss this with them. Under the Mental Capacity Act no person is to be deemed to lack capacity unless all practicable steps have been taken to help them to make the decision themselves. Regardless of capacity, surely it is central to person centred working, respect for the dignity of the person, and to consider the wishes and feelings of the person if making best interests decisions under the Mental Capacity Act 2005 to discuss the decision to share a report about them with other agencies. It is also unclear under this paragraph what action should be taken if a capacitated individual refuses to give consent, if seeking agreement places the individual or any other at risk of harm or if it is in the public interest not to gain the individual’s consent. In relation to this latter, the guidance would benefit from examples of when this might be the case. **Paragraph 51** appears to conflict with **paragraphs 85-86**. While paragraph 51 and the flowchart on p27 indicate that an immediate direct report must be made to the police if there is suspicion that an offence may have occurred, paragraphs 85-86 suggest that contact with the police should be decided upon at a strategy meeting. If the distinction is that the police must be informed immediately **only where necessary in order to protect a person from imminent serious harm**, this needs to be clarified. **Paragraph** 64 says‘the three separate components of this duty’ without clarifying which duty it refers to. Presumably this is the s126 duty to make enquiries. It is not clear what this paragraph adds to the previous paragraph, except to specify that the outcome should be recorded. This could be expressed more clearly.We also note that different terminology is used for ‘case conferences’ and ‘adult protection conferences’, and feel that it would be preferable if consistent terminology was used in the guidance. |
| **2. Is there any part of the guidance which would be more appropriate for the revised All-Wales Protection Procedures? If so please specify below.**  |
| **Yes** ☐  | **No** ☐  | **Unsure X**  |
| Please specify: **General Comments – applicable to both consultation documents**It is difficult to answer this question without having sight of the All-Wales Protection Procedures. The impression given by the consultation documents is that the All-Wales Protection Procedures will be a single document, dealing with both adults and children at risk.  Given that adult and children’s service provision is usually provided by different teams within a local authority, we wonder at the utility of this and suggest that separate Procedures are issued for adults and children.**Specific Comments – handling cases concerning children**If the All-Wales Protection Procedures follow the format of the current version, then arguably the Handling Individuals Cases to Protect Children at Risk document is superfluous as all of the information contained in therein is likely to be replicated in the Protection Procedures.  Our understanding is that local authorities in England do not have the benefit of ‘All-England Protection Procedures’ and, therefore, the ‘Working Together’ Guidance applicable in England is necessary to prescribe the requirements relating to the conduct of child protection investigations.  Given that local authorities in Wales do have the benefit of the All-Wales Procedures, which drawn upon the experiences of the Welsh local authorities, what purpose does the Handling Individuals Cases to Protect Children at Risk document serve, and would a better approach be for the Welsh Government to take over responsibility for the All-Wales Protection Procedures, with them being issued formally under section 131 or 145 as appropriate?**Specific Comments – handling cases concerning adults**We have been unable to find any central Welsh Government information about how the All-Wales Protection Procedures apply to adults. On the main Welsh Government safeguarding website[[5]](#footnote-5) these appear to apply only to children, although we note that some Welsh local authorities use this language to apply to adults as well. There may be an intention to refer to the National Independent Safeguarding Board established by the Social Services and Wellbeing (Wales) Act 2014, chaired by Margaret Flynn.  |
| **3. Do the flowcharts adequately reflect the process for managing individual cases? If not please specify which flowchart and how it could be improved.**  |
| **Yes** ☐  | **No X**  |
| If no please specify: **Specific Comments – handling cases concerning children**Generally, the flowcharts contained in the Handling Individuals Cases to Protect Children at Risk document are clear, although they seem to preclude the possibility of an initial child protection conference determining that it is appropriate to seek legal advice with regard to the instigation of court proceedings, as this option is only referenced after a review conference has occurred.**Specific Comments – handling cases concerning adults**The flowchart on page 27 does not reflect the ‘person centred’ approach that the guidance as a whole promotes, nor important legal considerations for local authorities relating to consent, mental capacity and human rights. The language in the flowchart does not reflect the central role that the person’s wishes and feelings play in determining the appropriate course of action, including their rights to give or refuse consent to any safeguarding action plan. Where it is determined that an adult is at ‘immediate risk’, the guidance states that the adult must be ‘removed’. We question this choice of language for a number of reasons. It is based on the assumption that it is always an appropriate response to remove the potential victim of abuse or neglect, rather than to address the perpetrator. Moreover, ‘removal’ will not be the solution in many cases where the risk is not connected with the location where an adult is living – for example, where it arises in connection with visits to a person. Finally, there is an implicit assumption either that the adult will agree to ‘removal’, or that their consent or otherwise is redundant in situations of immediate risk. ‘Removal’ is language that is better reserved for furniture, than people.Although the flowchart mentions ‘agree care and support’ for determinations 1 and 3, it does not indicate who needs to agree this. Clearly it is essential that the person themselves agrees to the proposed care and support, or if they do not that the local authority is satisfied that this refusal of consent is made with capacity and without undue influence. Because, as we discuss further under Question 7 below, the Mental Capacity Act 2005 plays a central role in many adult safeguarding cases, it would be preferable if the flowchart reflected this. Furthermore, in cases where the individual lacks capacity, the flowchart should say that safeguarding practitioners should consider whether there is a need to seek authorisation for any deprivation of liberty or make an application to the Court of Protection in relation to any care, support and protection plan. We also feel that it could be clearer in the flowchart at what point the assessment of needs for care and support takes place. Under the ‘Determination 1: Immediate protection’ heading, there is a jump from removing the adult and strategy meetings to ‘Agree care and support’ – with no reference made to when the assessment of eligible needs should take place. A similar problem arises under determination 3. Under determination 2, it appears that safeguarding investigations are thought of as a discrete process that occurs *before* an eligibility assessment – yet identifying unmet need may be central to a safeguarding enquiry, and moreover waiting until such enquiries are completed may delay a person’s assessment for eligible needs (see also Q7, below).  |
| **4. We would like to know your views on the effects that the guidance would have on the Welsh language, specifically on** i) opportunities for people to use Welsh; and ii) on treating the Welsh language no less favourably than English. **What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**  |
| Please specify: Presumably, an Equality Impact Assessment (EIA) has been undertaken to inform the development of the guidance.  In our view it would be preferable to make the EIA available and invite comments, so that respondents are aware of the factors which the Welsh Government has/has not taken into consideration as part of its evidence base for the guidance.As a general observation, we have not been able to locate a Welsh language version of the guidance in respect of either children or adults. |
| **5.** **The Welsh Government is interested in understanding whether the proposals in this consultation document regarding this guidance a will have an impact on groups with protected characteristics. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not?**  |
| **Yes** ☐  | **No** ☐  |
| Please specify: As for question 4, in our view it would be preferable to make the Equality Impact Assessment available and invite comments, so that respondents are aware of the factors which the Welsh Government has/has not taken into consideration as part of its evidence base for the guidance. |
| **6. Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?**  |
| **Yes X**  | **No** ☐  |
| Please specify: As for question 4; in our view it would be preferable to make the Equality Impact Assessment available and invite comments, so that respondents are aware of the factors which the Welsh Government has/has not taken into consideration as part of its evidence base for the guidance.However, there is a risk that this guidance may promote practices that infringe the human rights of disabled people, because it fails to adequately take into account their human rights in relation to safeguarding practice. We describe these concerns more fully under question 7 below. |
| **7. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to tell us about them** |
| **Specific Comments – handling cases concerning children**In relation to the Handling Individuals Cases to Protect Children at Risk document, we make the following observations:* Paragraph 17 – as currently drafted the section relating to ‘a child centred approach’ fails to deal with the practical reality of working with children and the need to give due regard to age, maturity and understanding.  How does a practitioner “work in partnership with” or give “feedback to” an 18 month old?
* Paragraph 33 – we wonder at the utility of including the category of ‘financial abuse’ in relation to children.  Whilst we can see that the issue of financial exploitation may be significant in relation to adults, we believe that it is unlikely to arise frequently in relation to children and could, in any event, be deemed to be neglect in the same way as failing to access services is so classed.  In addition, whilst we appreciate that the Social Services and Well-being (Wales) Act 2014 includes financial abuse within the definition of abuse, having an additional category, which does not map to the categories of abuse applied in England, also creates potential difficulties in relation to cross-border referrals, should a family move from Wales to England.
* Paragraph 46 – it is unclear how the content of a ‘care and support plan’, a ‘care and support protection plan’ and a ‘section 31A/care plan’ will differ, and clarification as to the expected content of each should be provided.
* Paragraph 61 – this should make clear that the ‘follow-up’ duty applies to professionals making referrals to a local authority and not to members of the public, as it is impractical to expect that a member of the public will be able to take responsibility for ‘policing’ the local authority’s response to a referral.
* Paragraph 113 – we were uncertain what the phrase ‘suspected child’ is meant to mean, presumably it is intended to refer to a child about whom there is concern?
* Paragraph 135 – as currently drafted this could be read as suggesting that a core group can only be established in cases where “family members are not satisfied with the process”.
* Paragraph 137 – refers to ‘lead practitioners’, but does not explain who this may be.  Is this a different concept from the ‘care and support co-coordinator’ noted in paragraph 134?
* Paragraph 139 – refers to further review conferences being held “at regular intervals”, whereas the Flowchart 3 refers to such conferences being held within 6 months. There should be consistency within the guidance, and it would be preferable to specify the timescale within which review conferences must be undertaken in order to avoid the possibility of drift.
* Section 6 – This appears to be a collection of information about the requirements under/provision of various statutes and professional bodies, but it is not clear how this information relates to the remainder of the Handling Individuals Cases to Protect Children at Risk document, or how the information is supposed to be applied.
* Appendix A – we cannot see that child assessments orders are properly classed as ‘emergency protection powers’ as their utility is in cases where assessment, rather than protection, is deemed to be required, so they are neither an urgent nor a protection-focused intervention.

Given the complexity of the interaction between the Social Services and Well-being (Wales) Act 2014, the Children Act 1989 and the Children Act 2004, it would be helpful to include a table setting out how the different legislative provisions apply to various public bodies.**Specific Comments – handling cases concerning adults**Our main concerns with the draft guidance are those areas that are *not* addressed that are central to operating within the legal framework for adult safeguarding. These are discussed below.**Financial abuse**The Act defines abuse as including ‘physical, sexual, psychological, emotional **or financial abuse**’. This definition means that local authorities have new legal obligations to consider whether a person is at risk of financial abuse, yet financial abuse is not mentioned at all in the guidance. We would expect, at a minimum, the document to explain what powers local authorities have to investigate and act in relation to financial abuse. In particular, we would expect it to mention the appropriate channels for local authorities to take action to alert the Department for Work and Pensions if it suspects abuse of a benefits appointeeship, or the Office of the Public Guardian if it suspects financial abuse by deputies or attorneys managing a person’s finances under the Mental Capacity Act 2005. We are surprised that the role of the Office of the Public Guardian is mentioned in the children’s guidance but not for adults. Furthermore, we would expect the guidance to highlight the importance of alerting the police and fraud investigators where it is felt that financial abuse involves criminal activity.**Eligibility and assessment under Part 3 of the Act**Under s126 of the Act, the duty to investigate arises in connection with an adult who is experiencing or is at risk of abuse or neglect, who ‘has needs for care and support (whether or not the authority is meeting any of those needs)’ and ‘as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.’ It is clear from this phrasing that the safeguarding duty arises even in relation to adults who have not previously had an assessment under Part 3 of the Act, or who have needs for care and support that are not *eligible* for local authority assistance (either because they do not meet the eligibility criteria or because their needs are being met in other ways). It would be helpful to emphasise that s s126 duty to investigate is *broader* than to individuals who are already known to social care services or those who are eligible for local authority care and support under the standard eligibility criteria.Furthermore, an adult who has needs for care and support that would not ordinarily meet the eligibility criteria *becomes eligible* for care and support if it is necessary to meet their needs in order to protect them from abuse or neglect or the risk of abuse or neglect (s32(1)(b)). It is important that the safeguarding guidance emphasises that the eligibility criteria are in effect waived if care and support is necessary to protect against the risk of abuse or neglect.It is also important to be clear that in certain circumstances the safeguarding duty under s126 of the Act will trigger the need for an assessment or reassessment under Part 3 of the Act. While this is stated, references to the assessment process and when an assessment should take place are scattered throughout the guidance. The guidance would be clearer if these were drawn together with the relationship between safeguarding procedures and assessment under Part 3 clearly stated, and guidance given as to when the Part 3 assessment should start (see comments relating to the flowchart, above). There is currently no guidance on how a decision is made that an adult has needs for care and support (and may therefore be potentially ‘at risk’ under s126) where the person has not previously had a Part 3 assessment under the Act. **The consent of the adult**Paragraph 64 states that ‘The consent of the adult is a significant factor in deciding what action to take in response to a concern or allegation’. We agree: consent is central to the action that can be taken in response to a concern or allegation of abuse or neglect. Safeguarding professionals need to be clear about the legislative basis of their work. Yet we are very concerned that the guidance does not clearly state the limited powers that local authorities have to act where the adult does not consent.Paragraph 65 provides examples of situations where the local authority may take action without the consent of the adult considered to be at risk. One of these is the situation of adults who lack mental capacity; we discuss this below. The guidance goes on to say that the individual’s wishes may be overridden where ‘there is high risk to the health and/or safety of the individual’. We are unclear of the legal basis for this statement. What powers are available to local authorities to act in such circumstances? Outside the Mental Capacity Act 2005 there are few powers that would permit this. One possibility is use of the Mental Health Act 1983 or the inherent jurisdiction of the High Court – neither of which is mentioned in the guidance - and then there are the adult protection and support orders created by the Act. As currently drafted the guidance seems to imply there is a general power to act in situations of high risk outside of these specific legal frameworks. To the best of our knowledge there is not. The doctrine of necessity (in relation to risk to the person themselves) was codified by the Mental Capacity Act 2005 and the courts have found that professionals can no longer rely upon it where the 2005 Act’s procedures should be followed.[[6]](#footnote-6) The guidance should identify clearly the centrality of consent to the delivery of adult social care, including safeguarding, and then clearly spell out those (limited) powers available to act where consent cannot be obtained.**Human rights considerations in safeguarding interventions**We welcome the emphasis on person centred working in the guidance, and the recognition of the importance of rights to autonomy, liberty and family life (paragraph 20). However, the guidance does not reflect the *legal* *procedural* considerations that safeguarding practitioners must take into account when working in areas where autonomy and protection come into tension. Concerns have been expressed on a number of occasions about the legal literacy of safeguarding practitioners and those working in adult social work more generally.[[7]](#footnote-7) It is essential that the guidance flags up these key legal considerations to ensure that safeguarding practitioners remain within the law. Otherwise, as Sir James Munby - the President of the Court of Protection - has warned on several occasions that safeguarding itself risks becoming abuse.[[8]](#footnote-8) For a significant proportion of adults at risk of neglect and abuse, the Mental Capacity Act 2005 (MCA) will be central to the steps that may be taken to protect them. No statistics are available for Wales, but in England at least 27% of adults involved in safeguarding referrals were assessed as lacking the mental capacity to take steps to protect themselves from harm or abuse.[[9]](#footnote-9) The guidance acknowledges that where adults are assessed as lacking the mental capacity to make decisions about their safety, decisions about protective arrangements should be made in their best interests (paragraph 98). This is correct, however, practitioners may *also* have to ensure they have used the appropriate procedures for making best interests decisions that engage Article 5 ECHR – the right to liberty and security of the person, or Article 8 ECHR – the right to respect for home, family and private life. The guidance refers to a need for ‘balance’ between ‘rights to safety’ and rights to liberty, autonomy and family life (paragraph 20), but practitioners must do more than merely *balance* these rights, they must ensure the *appropriate processes* required by human rights law are followed. These receive scant mention in the guidance.Specifically, where steps taken to safeguard an adult from risks of abuse or neglect may result in a deprivation of liberty, or where safeguarding enquiries reveal that a person is already deprived of their liberty but it is not authorised appropriately, the local authority will be responsible for ensuring the appropriate safeguards are in place – either under the MCA deprivation of liberty safeguards (DoLS) or through an application to the Court of Protection. Furthermore, in situations where a serious dispute arises between the person or their family and the local authority, about matters such as where the person lives, contact arrangements or other issues engaging rights to respect for home, family and private life, the local authority is likely to need to make an application to the Court of Protection. The ‘authority’ of safeguarding boards to act in the best interests of adults who lack mental capacity is not absolute and unlimited, nor is the authority of local authorities as a supervisory body under the DoLS. In *London Borough of Hillingdon v Neary[[10]](#footnote-10)* Mr Justice Peter Jackson stated that ‘Significant welfare issues that cannot be resolved by discussion should be placed before the Court of Protection’. In that case, and a number of other cases, the Court of Protection has found that local authorities that failed to refer a serious dispute concerning residence, contact or other related matters to the Court of Protection, they had violated the human rights of those they sought to protect. [[11]](#footnote-11) Many of these have been safeguarding cases. In such cases, the Court of Protection has often awarded significant damages to the individuals, and sometimes their families, against the local authority. Given the centrality of the DoLS, and increasingly also the Court of Protection, to adult safeguarding, it is surprising and concerning that they are barely mentioned in the guidance. The DoLS only receive an indirect reference – bizarrely to a chapter in the Mental Health Act 1983 Code of Practice concerning the interface between the Acts (paragraph 26), that is likely to only be relevant to safeguarding practitioners if a person is also subject to a regime under the Mental Health Act 1983. The separate MCA Code of Practice on the DoLS is mentioned nowhere in the guidance (paragraph 25), yet practitioners must also have regard to this code under s42(4) MCA. No mention of the role of the Court of Protection is made *anywhere* in the guidance, even though local authorities must consider whether to make an application to the court in cases where the adult or their family objects to proposals engaging their Article 8 rights. We also suggest that it is important to remind practitioners of their common law duty[[12]](#footnote-12) to consider whether they should make an application for the High Court to exercise its inherent jurisdiction in cases where the adult has mental capacity but where their autonomy is impaired as a result of undue influence, coercion or duress.It is especially important that these areas are addressed in the Welsh guidance, as there is evidence that rates of use of the DoLS and the Court of Protection are significantly lower than in England. [[13]](#footnote-13) This suggests that practitioners may less aware of their obligations to use the DoLS, to ensure that those deprived of their liberty are able to exercise their rights of appeal to the Court of Protection, and to refer serious disputes about welfare matters to the court. The guidance needs to flag up these considerations so that they become central to safeguarding practitioners’ awareness of their legal responsibilities. |
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| Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:  |  |

1. http://www.cardiff.ac.uk/research/explore/research-units/centre-for-health-and-social-care-law [↑](#footnote-ref-1)
2. http://sites.cardiff.ac.uk/childrens-social-care-law/ [↑](#footnote-ref-2)
3. https://sites.cardiff.ac.uk/wccop/ [↑](#footnote-ref-3)
4. *R* v *Islington LBC ex parte Rixon* [1997-1998]1 CCLR 119 at 123, per Sedley J. [↑](#footnote-ref-4)
5. http://gov.wales/topics/health/socialcare/safeguarding/?lang=en [↑](#footnote-ref-5)
6. *The Commissioner of Police for the Metropolis v ZH* [2013] EWCA Civ 69 [↑](#footnote-ref-6)
7. Social Care Institute for Excellence, ‘Self-neglect and adult safeguarding: findings from research’ (Adults' Services SCIE Report 46, 2011); M Preston-Shoot and J McKimm, 'Exploring UK medical and social work students’ legal literacy: comparisons, contrasts and implications', (2013) 21(2) *Health & Social Care in the Community* 271-282; *Hansard* HL Deb, 14 October 2013, c339: Care Bill, Amendment 77: Powers of access for confidential interview, adult safeguarding order. [↑](#footnote-ref-7)
8. The Right Honourable Lord Justice (Sir James) Munby (2011) 'Dignity, Happiness and Human Rights', *Elder Law Journal,* 1(1), 32-38; Sir James Munby (2013) 'Safeguarding, Capacity and the Law', paper presented at National Spring Safeguarding Adults Conference of the Local Government Association: ‘Leading Adult Safeguarding’, London, on 12 March 2013; Lord Justice Munby (2012) 'Protecting Liberties: Vulnerable Adults, Local Authorities and the Courts', paper presented at Leeds City Council, Barnsley Metropolitan Council and Wakefield City Council Adult Social Care Departments Mental Health Conference, Leeds Civic Hall. [↑](#footnote-ref-8)
9. NHS Digital, *Safeguarding Adults: Annual Report, England 2015-16 Experimental Statistics* (2016) <<https://www.gov.uk/government/statistics/safeguarding-adults-2015-to-2016-experimental-statistics>> accessed 7 February 2017. [↑](#footnote-ref-9)
10. [2011] EWHC 1377 (COP) [↑](#footnote-ref-10)
11. *JE v DE & Ors* [2006] EWHC 3459 (Fam); *London Borough of Hillingdon v Neary* [2011] EWHC 1377 (COP); *The Local Authority v Mrs D & Anor* [2013] EWHC B34 (CoP); *Essex County Council v RF & Ors (Deprivation of Liberty and damage)* [2015] EWCOP 1; *Milton Keynes Council v RR & Ors* [2014] EWCOP B19 and *RR (Costs Judgement)* [2014] EWCOP 34; *Somerset v MK (Deprivation of Liberty: Best Interests Decisions: Conduct of a Local Authority)* [2014] EWCOP B25 [↑](#footnote-ref-11)
12. *Re Z (Local Authority: Duty)* [2004] EWHC 2817 (Fam), para 19. [↑](#footnote-ref-12)
13. Lucy Series, Adam Mercer, Abigail Walbridge, Katie Mobbs, Phil Fennell, Julie Doughty and Luke Clements, ‘Use of the Court of Protection’s welfare jurisdiction by supervisory bodies in England and Wales’ (Report for the Nuffield Foundation, School of Law and Politics, Cardiff University 2015) <http://sites.cardiff.ac.uk/wccop/local-authorities-in-the-court-of-protection-new-research/>; Care and Social Services Inspectorate Wales and Health Inspectorate Wales, *A National Review of the use of Deprivation of Liberty Safeguards (DoLS) in Wales* (2014). [↑](#footnote-ref-13)