# Safeguarding Children and Adults at Risk: Guidance Note 1 Full Definitions and Relevant Legislation

**Children**

**Adults at Risk**

The Children Act 1989 defines a 'child' as a person under the age of 18.

The Health and Safety at Work Regulations 1999 (Reg 19) defines the term ‘children/child’ to apply to persons between birth and 16 years. Under this definition, individuals of 16 and 17 years are considered ‘young persons’.

The term ‘child’ is used within the university’s suite of guidance to refer to anyone under the age of 18.

The term ‘young person’ is used in this document to refer to someone who might not perceive themselves as a child, but who is still legally defined as a child being under 18.

There is no requirement to gain consent before reporting concerns about a child to the relevant statutory authorities (police, social service or the NSPCC), nor to determine their mental capacity.

The broad definition of an adult at risk is:

A person who is 18 years of age or over and who is experiencing or is at risk of abuse or neglect, has needs for care and support (whether or not the local 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 (Social Services and Well-Being (Wales) Act 2014).

People with learning disabilities, mental health problems, older people and disabled people may fall within this definition.

Students with additional learning needs may also be adults at

risk. Where an accepted applicant has disclosed an appropriate condition, the Disability and Dyslexia Service will request additional information for the purposes of risk assessment to include any safeguarding needs, identifying additional support and reasonable adjustments. They will have access to independent advocacy and advice.

Other legislation such as that governing DBS checks may give different variations of the definition and are applied accordingly.

Adults will be deemed as ‘at risk’ or ‘vulnerable’ at the point at which they receiving regulated activity as defined under the Safeguarding Vulnerable Groups Act 2006 (amended by the Protection of Freedoms Act 2012). A definition of regulated activity is given in this document.

In law an adult is deemed to have capacity to give or withhold consent to Social Services referrals, medical examinations, etc. If it is believed that an adult is at risk of harm and may need protection, a responsible person must consider if the individual is capable of giving consent. If this is so determined, a professional acting on behalf of the organisation must seek the individual’s consent before taking any action, such as a referral to social services or the police (Mental Capacity Act).

There are some exceptions to this rule where consent is not required. These are:

* Where there is a duty to act (e.g. a crime may have taken place); or
* When it is in the public interest to act (e.g. another person or people, child or adult, is/are put at risk); or
* When it is suspected that the individual may be under the undue influence of someone else.

Information sharing protocols (see Supporting Guidance and Practice Guidance Note 1: Reporting Concerns) will evidence that consideration of capacity to consent has taken place, that consent has been given or withheld or the decision-making process to judge that this is not required.

# Regulated Activity with Children

Regulated activity with a child includes:

* Unsupervised teaching, training or instruction of children (teaching/training provided wholly or mainly for children not courses aimed at/delivered to students who are mainly over the age of 18), carried out by the same person frequently (once a week or more often), or on 4 or more days in a 30-day period, or overnight (2am - 6am)
* Care (personal and health care) or supervision of children
* Advice or guidance provided wholly or mainly for children relating to their physical, emotional or educational wellbeing if carried out by the same person frequently (as above)
* Moderating a public electronic interactive communication service likely to be used wholly or mainly by children, carried out by the same person frequently (as above)
* Driving a vehicle being used to convey children

Further information is available at: [www.gov.uk/disclosure-](http://www.gov.uk/disclosure-) barring-service- check/overview

Where a role has some limited, short-term or supervised contact with children or adults in a vulnerable situation (for instance for work experience placements, summer schools, undertaking normal teaching duties or carrying out standard out-reach activities) this is unlikely to meet the definition of regulated activity and so would not be subject to a DBS check with a barring list check.

Consideration will be given to roles which meet eligibility for an enhanced DBS check without the barring list check.

# Regulated Activity with Adults at Risk

Regulated activity with adults at risk includes:

* Personal care (physical assistance with eating or drinking, toileting, washing or bathing, dressing, oral care or care of the skin, hair or nails provided for reasons of age, illness or disability)
* Healthcare (by a health care professional or a person acting under the direction or supervision of a healthcare professional)
* Social work
* Assistance in day-to-day matters including handling cash
* Driving the adult to appointments for the purposes of: health care, personal care or social work required due to age, illness or disability
* People who hold a lasting or enduring power of attorney under the Mental Capacity Act 2005 (MCA), a deputy under the MCA, an Independent Mental Health/Capacity Advocate in respect of the individual

In the University context, many posts will not require a Disclosure and Barring Service check as University activities are often not provided wholly or mainly for children. All those who regularly work with children or Adults at Risk should however be made aware of this policy and associated guidance and should attend relevant training (please contact Human Resources for further information about training available).

# Disclosure and Barring Service (DBS) Checks

**Safeguarding Oﬃcers**

Disclosure and Barring Service (DBS) checks are a search of an individual’s criminal record in order to ascertain if they are barred from working in any roles that involve Regulated Activity (and therefore require a DBS check). Further information can be found in Guidance Note 2.

# Lead Safeguarding Officer (LSO):

The LSO is the Academic Registrar, who has overall accountability and strategic responsibility for safeguarding children and adults at risk within the University.

# Principal Safeguarding Officers (PSOs):

PSOs have responsibility for overseeing the implementation of the Safeguarding Policy within the university and provide leadership and support to Designated Safeguarding Officers.

These are the Director of Human Resources in respect of staff, and the Director of Student Support and Wellbeing in respect of University students.

# Designated Safeguarding Officers (DSOs):

These are officers appointed in Academic Schools and Professional Service departments where there are programmes or activities where work is conducted with children and ‘at risk’ adults as part of their roles. One or more DSO will be appointed to take responsibility for safeguarding within that programme or activity. The DSO will normally be the organiser or coordinator of the programme or activity. Depending on the scale of activity there may be one or more nominated.

**Deputy Designated Safeguarding Officer (DDSO):**

A DDSO is appointed to support the DSO and may be the first point of contact for activity involving children/adults at risk.

# Research DSO:

For research activities it will be the responsibility of the Head of School to ensure that a Designated Officer is appointed for any research activities involving children or adults at risk.

The Designated Officer will usually be the person with overall responsibility for the activity (e.g. Principal Officer). The Designated Officer may appoint a Deputy Designated Safeguarding Officer (DDSO) who is involved in day-to-day activity to support the DSO.

# The responsibilities of all Safeguarding Officers can be found in Guidance Note 2

**Abuse**

Section 197(1) of the Social Services and Well-Being (Wales) Act 2014 provides definitions of abuse and neglect.

**Physical Abuse**

‘Abuse’ means physical, sexual, psychological, emotional or financial abuse and includes abuse taking place in any setting, whether in a private dwelling, an institution or any other place.

The following is a non-exhaustive list of examples for each of the categories of abuse and neglect.

May include hitting, slapping, overuse or misuse of medication, acts of undue restraint or inappropriate sanctions. May also include threats of harm or abandonment, humiliation, verbal or racial abuse, isolation or withdrawal from services or supportive networks, or coercive control (an act or pattern of acts of assault, threats, humiliation, intimidation or other abuse that is used to harm, punish or frighten the victim).

# Financial Abuse

* Having money or other property stolen
* Being defrauded
* Being put under pressure in relation to money or other property
* Having money or other property misused

Signs of financial abuse in relation to people who may have needs for care and support may include:

* Unexpected change to their will
* Sudden sale or transfer of the home
* Unusual activity in a bank account
* Sudden inclusion of additional names on a bank account
* Signature does not resemble the person’s normal signature
* Reluctance or anxiety by the person when discussing their financial affairs
* Giving a substantial gift to a carer or other third party
* A sudden interest by a relative or other third party in the welfare of the person
* Bills remaining unpaid
* Complaints that personal property is missing
* Deliberate isolation from friends and family giving another person total control of their decision-making

**Sexual Abuse**

**Domestic Violence**

**Grooming**

Rape and sexual assault or sexual acts to which the vulnerable adult has not or could not consent and/or to which they were pressured into consenting.

No child under the age of 13 years is able to consent to sexual activity. Sexually active young people in peer-to-peer relationships where both participants are under the age of 18 should be consensual e.g. without coercion, exploitation, manipulation or the use of drugs or intoxicants to lower resistance.

Intimate relationships between adults (aged over 18 years) who are in a position of trust and young people under the age of 18 years in their care are considered to be an abuse of a position of trust and a crime under the Sexual Offences Act 2003.

The Domestic Violence, Crime and Victims Act 2004 amendment 2012 includes the definition of “causing child or vulnerable adult to suffer physical harm”.

The NSPCC defines grooming as when someone builds a relationship, trust and emotional connection with a child or young person so they can manipulate, exploit and abuse them. The Sexual Offences Act 2003, grooming of young people under the age of 18 became a statutory offence.

**Online Abuse**

**Neglect**

Online abuse is any type of abuse that happens on the web, whether through social networks, playing online games or using mobile phones. Children and adults at risk may experience cyberbullying, grooming, sexual abuse, sexual exploitation or emotional abuse. Children and adults at risk can be at risk of online abuse from people they know, as well as from strangers.

Online abuse may be part of abuse that is taking place in the real world (for example bullying or grooming) or it may be that the abuse only happens online (for example persuading children or adults at risk to take part in sexual activity online).

Neglect means a failure to meet a person’s basic physical, emotional, social or psychological needs, which is likely to result in an impairment of the person’s wellbeing (for example, an impairment of the person’s health or, in the case of a child, an impairment of the child’s development). This may include:

* The failure to access medical care or services
* Negligence in the face of risk-taking
* Failure to give prescribed medication
* Failure to assist in personal hygiene or the provision of food, shelter, clothing

• Emotional neglect

Possible indicators of neglect may include decline in personal appearance that may indicate that diet and personal requirements are being ignored.

# Modern Slavery

**Radicalisation**

Modern slavery encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.

The aim of radicalisation is to attract people to a person’s way of reasoning, inspire new recruits, embed extreme views and persuade vulnerable individuals of the legitimacy of a cause.

This may be direct through a relationship, or through social media.

**Rehabilitation of Offenders Act 1974**

**The Human Rights Act 1998**

Once a caution or conviction has become spent under the 1974 Act, a person does not have to reveal it or admit its existence in most circumstances. Unless an exception applies due to the position being eligible for DBS checks, then spent cautions and convictions need not be disclosed when filling in a form, or at a job interview. An employer cannot refuse to employ someone (or dismiss someone) because he or she has a spent caution or conviction unless an exception applies.

The exceptions for declaring spent cautions and convictions are listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. An employer should be able to say if an exception applies and, if so, where it can be found on the Exceptions Order.

Filtering is the term that the DBS uses to describe the process which will identify protected convictions and cautions and ensure that they are not disclosed on DBS certificates.

Offences which are serious and which relate to sexual offending, violent offending and/or are relevant to safeguarding people in vulnerable circumstances will never be filtered.

The Human Rights Act 1998 (the Act or the HRA) sets out the fundamental rights and freedoms that everyone in the UK is entitled to.

# Data Protection Act 2018

Anyone who processes personal information must comply with eight principles of the Data Protection Act, which is to make sure that personal information is fairly and lawfully processed, not excessive, accurate, and secure.

There is stronger legal protection for more sensitive information, which generally shouldn’t be shared without the individual (data subject)’s consent and then only for specific purposes.

Sharing of personal information is legal and encouraged when the organisation has a legal obligation to fulfil, when they are acting to protect the vital interests of the subject or when it assists in the investigation of criminal activity.

Further information about the University’s obligations under Data Protection legislation can be found at the link below:

<https://intranet.cardiff.ac.uk/staff/services/data-protection>

Mandatory Information Security training for **all staff** is available on Learning Central.

Further information security policies and guidance can be found at the link below:

<http://sites.cardiff.ac.uk/isf/>

# The Children Act 1989

**CSSIW**

**The Children Act 2004**

Established the paramount principle; the welfare of the child is paramount.

Parental responsibility is determined to rest with both mother and father who were married to each other at the time of child’s birth. Parental responsibility may be acquired by legal process by other parental figures.

All other adults supplying services to children are under a duty of care to maintain their safety and well-being.

In Safe Hands (Welsh Government 2000) details the roles and responsibilities of CSSIW in relation to other statutory bodies.

This includes local authorities who have the lead role in coordinating the development of local policies and procedures in adult protection.

CSSIW is an integration of two former organisations - Care Standards Inspectorate for Wales and Social Services Inspectorate Wales.

The Children Act 2004 provides the legal basis for how social services and other agencies deal with issues relating to children.

These guidelines have been laid down so that all individuals who are involved in the looking after children, be it in the home, the work place, school or other locale are aware of how children should be looked after in the eyes of the law.

# Working Together to Safeguard Children 2004

**All Wales Child Protection Procedures 2008**

**Keeping Learners Safe 2015**

**Working Together to Keep Children Safe 2015**

**Sexual Offences Act 2003**

How organisations and individuals should work together to safeguard and promote the welfare of children. It is addressed to Chief Officers, senior and operational managers as well as practitioners and front-line managers who have particular responsibilities for safeguarding and promoting the welfare of children.

All Wales child protection procedures, implemented on April 1st 2008, will help safeguard children and promote their welfare.

Guidance includes the framework for safeguarding in Wales and safeguarding roles and responsibilities in the education service. It covers safeguarding responsibilities in specific circumstances and details safer recruitment practice under the Disclosure and Barring Service.

A guide to inter-agency working to safeguard and promote the welfare of children.

Clarifies what constitutes a crime of a sexual nature against children, young people and adults. The Act does not limit children’s right to sex and relationships education and sexual health support and advice.

# Safeguarding Vulnerable Groups Act 2006

**Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse (2013)**

**Female Genital Mutilation Act 2004**

**Forced Marriage Act 2007**

**Criminal Justice and Immigration Act 2008**

The Act aims to avoid harm, or risk of harm, by preventing people who are deemed unsuitable to work with children and vulnerable adults from gaining access to them through their work.

A guide for safeguarding work for all those concerned with the welfare of vulnerable adults employed in the statutory, third (voluntary) and private sectors, in health, social care, the police and other services.

FGM has been a criminal offence in the UK since 1985. In 2003 it also became a criminal offence for UK nationals or permanent UK residents to take their child abroad to have female genital mutilation.

It is a criminal offence in England and Wales to force someone to marry. The maximum penalty for an offence is 7 years’ imprisonment.

New powers to deal with anti-social and violent behaviour, make sentencing decisions clearer and introduces a new community sentence for young offenders.

# Violence Against Women, Domestic Abuse and Sexual Violence (wales) Act 2015

**The Mental Capacity Act**

**Social Services and Well-Being Act (Wales) 2014**

The Act will improve arrangements to promote awareness of, and prevent, protect and support victims of gender-based violence, domestic abuse and sexual violence.

The Mental Capacity Act (MCA) is designed to protect and empower individuals who may lack the mental capacity to make their own decisions about their care and treatment. It is a law that applies to individuals aged 16 and over.

Everyone has the right to make his or her own decisions. Health and care professionals should always assume an individual has the capacity to make a decision themselves, unless it is proved otherwise through a capacity assessment.

People should also be provided with an independent advocate who will support them to make decisions in certain situations, such as serious treatment or where the individual might have significant restrictions placed on their freedom and rights in their best interests.

New legislation for Wales that is separate to the care Act for England and addresses the well-being of children, adults, and carers