



# Legislation and guidance summary

## Legislation/guidance

### **Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse 2010**

Soon to be replaced by new procedures and guidance, Handling Individual Cases, (adult, children versions) and will be added to the Social Care Wales Information and Learning Hub: [socialcare.wales/hub/sswbact-codes](https://socialcare.wales/hub/sswbact-codes)

### **How it protects the people we support**

Individuals have the right to be fully involved throughout the adult protection process and to make decisions about their safety and welfare, unless it has been assessed that they do not have the mental capacity to make any specific decision.

### **What it requires you to do if you become aware of harm, abuse and neglect**

You have a duty of care to act if you:

- witness abuse or neglect
  - receive information about abuse or neglect or suspected abuse or neglect, including suspicions about the care or treatment of an adult at risk
  - have suspicions about possible abuse or neglect.
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## Legislation/guidance

### **All Wales Child Protection Policy and Procedures 2008**

Soon to be replaced by new procedures and guidance, Handling Individual Cases (adult, children versions), and will be added to the Social Care Wales Information and Learning Hub: [socialcare.wales/hub/sswbact-codes](https://socialcare.wales/hub/sswbact-codes)

### **How it protects the people we support**

They are based on the principle that the protection of children from harm is the responsibility of all individuals and agencies working with children and families, and with adults who may pose a risk to children.

### **What it requires you to do if you become aware of harm, abuse and neglect**

You have a duty of care to act if you:

- witness abuse or neglect
  - receive information about abuse or neglect, suspected abuse or neglect, including the care or treatment of a child
  - have suspicions about possible abuse or neglect.
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## Legislation/guidance

### United Nations Convention on the Rights of the Child 1989 (UNCRC)

#### How it protects the people we support

The convention includes articles that are general principles:

- non-discrimination
- best interest of the child
- right to life, survival and development
- right to be heard
- right to be protected.

#### What it requires you to do if you become aware of harm, abuse and neglect

A child-centered approach is required, and for services to be effective, they should be based on a clear understanding of the personal outcomes for the child and what matters to them. The rights of the child should be paramount to the approach chosen and their best interests should always be central.

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## Legislation/guidance

### Human Rights Act 1998

#### How it protects the people we support

The Human Rights Act 1998 protects everyone in the UK. The rights protected include:

- the right to life and have life protected
- the right to liberty and security
- the right to a fair hearing
- the right to respect for private and family life, home and correspondence
- the right to freedom of religion and belief
- the right not to be tortured or treated in an inhuman or degrading way.

#### What it requires you to do if you become aware of harm, abuse and neglect

To act when the rights of the people you support are threatened, i.e. report to an appropriate person. In the process of finding out what is happening to a child it is also essential to have regard, as far as is practicable, to the views, wishes and feelings of those with parental responsibility, family members and/or carers.

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## Legislation/guidance

### United Nations Principles for Older Persons

#### How it protects the people we support

These state that:

- older persons should be able to enjoy human rights and fundamental freedoms when residing in any shelter, care or treatment facility, including full respect for their dignity, beliefs, needs and privacy, and for the right to make decisions about their care and the quality of their lives
- older persons should be able to live in dignity and security and be free of exploitation, and physical or mental abuse.

#### What it requires you to do if you become aware of harm, abuse and neglect

Be aware, promote and uphold these rights.

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## Legislation/guidance

### United Nations Convention on the Rights of Disabled People (UNCRDP)

#### How it protects the people we support

This includes:

- children with disabilities to have all human rights and fundamental freedoms on an equal basis with other children, including the right to express their views freely, and the best interests of the child shall be a primary consideration (article 7)
- equal access to the built environment, transport, information and communication, and for all the barriers to the above to be identified and removed (article 9)
- living independently and being included in the community (article 19)
- freedom of expression and opinion, and access to information (article 21)
- respect for home and the family (article 23)
- education (article 24)
- habilitation and rehabilitation (article 26)
- work and employment (article 27).

#### What it requires you to do if you become aware of harm, abuse and neglect

Be aware, promote and uphold these rights.

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## Legislation/guidance

### Equality Act 2010

#### How it protects the people we support

It protects individuals from discrimination on the grounds of:

- disability
- gender reassignment
- pregnancy and maternity (which includes breastfeeding)
- race
- religion and belief
- sex
- sexual orientation.

#### What it requires you to do if you become aware of harm, abuse and neglect

To act when the rights of the people you support are threatened, i.e. report any suspicions to an appropriate person.

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## Legislation/guidance

### Data Protection Act 1998

#### How it protects the people we support

Protects the privacy and integrity of data held on individuals by businesses and other organisations.

#### What it requires you to do if you become aware of harm, abuse and neglect

To disclose information if it is likely to assist in the prevention, detection or prosecution of a crime and if a failure to disclose would be prejudicial to those purposes.

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## Legislation/guidance

### General Data Protection Regulation (GDPR), from May 2018

#### How it protects the people we support

Protects personal data sharing without 'explicit consent'.

#### What it requires you to do if you become aware of harm, abuse and neglect

The GDPR introduces a duty on all organisations to report certain types of data breach to the Information Commissioners Office (ICO), and in some cases, to individuals.

You only have to notify the ICO of a breach where it is likely to result in a risk to the rights and freedoms of individuals – if, for example, it could result in discrimination, damage to reputation, financial loss, loss of confidentiality or any other significant economic or social disadvantage.

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## Legislation/guidance

### Welsh Accord for the Sharing of Personal Information (WASPI)

#### How it protects the people we support

This accord clarifies that organisations should share the minimum necessary information on a need-to-know basis with the person's consent, but can share without consent where there is a risk of abuse or serious harm to themselves, or others.

The WASPI guidance states: "Staff should not hesitate to share personal information in order to prevent abuse or serious harm, in an emergency or in life or death situations. If there are concerns relating to child or adult protection issues, the relevant local procedures must be followed..."

#### What it requires you to do if you become aware of harm, abuse and neglect

Details how you should share information legally, safely and with confidence.

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## Legislation/guidance

### **Social Services and Well-being (Wales) Act 2014**

#### **How it protects the people we support**

Those working under this Act must seek to promote the well-being of people who have care and support needs and carers who need support. Well-being includes protection from abuse and neglect.

The Act identifies adults' and children's pathways in safeguarding.

#### **Adults' pathway**

Defines the term 'adult at risk' as an adult who:

- a)** is experiencing or is at risk of abuse or neglect
- b)** has needs for care and support (whether or not the local authority is meeting any of those needs) and
- c)** as a result of those needs is unable to protect himself or herself against the abuse or neglect, or the risk of it.

The term 'at risk' allows for an early intervention, the aim being to protect people who need it and help prevent abuse or neglect.

It places a duty upon local authority partner organisations, such as the police, local health boards, NHS trusts and probation, to inform the local authority if it suspects that an adult is at risk.

Local authorities have a new power to make enquiries if it has reasonable cause to suspect an adult is at risk.

If required an 'Adult Protection and Support Order' (APSO) can be used in exceptional circumstances to gain access to an individual to ensure a proper assessment takes place.

#### **What it requires you to do if you become aware of harm, abuse and neglect**

Promotes the principle that safeguarding is everyone's business.

You should report adults at risk to the local authority social services.

If a 'relevant partner' has reasonable cause to suspect that a person is an adult at risk and appears to be within the local authority's area or within another local authority's area, it must inform the local authority of that fact.

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## **Children's pathway**

The definition of a child at risk is a child who:

- a)** is experiencing or is at risk of abuse, neglect or other kinds of harm, and
- b)** has needs for care and support (whether or not the local authority is meeting any of those needs).

It places a duty upon relevant local authority partners to inform the local authority if it suspects that a child is at risk (police, local health boards, NHS trusts, probation and the youth offending service).

When a child has been reported as at risk follow up action is via the 'duty to investigate' by the local authority as required by section 47 of the Children Act 1989.

#### **What it requires you to do if you become aware of harm, abuse and neglect**

If a member of the public or a practitioner has reasonable cause to suspect that a child, including an unborn child, is at risk the report must be made as soon as possible to the local authority. However, if there are immediate concerns about a child's safety or a criminal offence against a child they should contact the emergency services without delay to protect the child / children from the risk of serious harm.

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## Legislation/guidance

### **Social Services and Well-being (Wales) Act 2014 Working Together to Safeguard People: Volume 1 – Introduction and Overview Statutory Guidance**

#### **How it protects the people we support**

Statutory guidance on safeguarding regarding adult and child protection. It sets out the overarching duties that must be complied with when working under the Social Services and Well-being (Wales) Act 2014 and how these are to be carried out in-line with the well-being principles and personal outcomes.

#### **What it requires you to do if you become aware of harm, abuse and neglect**

Know where to find this if needed.

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## Legislation/guidance

### Children Act 1989 and 2004

#### How it protects the people we support

Places a duty on all agencies to safeguard and promote the welfare and well-being of children, which includes reporting suspicions at an early stage to encourage preventative action.

If the local authority decides there is reasonable cause to suspect that the child is:

- (a)** experiencing or is at risk of abuse, neglect or other kinds of harm, and
- (b)** has needs for care and support (whether or not the authority is meeting any of those)

then the local authority shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare under Section 47 of the Children Act 1989.

Section 47 sets out particular circumstances when there is a duty to make enquiries – when the local authority is informed that a child is the subject of an emergency protection order or in police protection, or when there is suspicion of significant harm.

#### What it requires you to do if you become aware of harm, abuse and neglect

You have a responsibility to support the local authority in the making of their enquiries into significant harm.

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## Legislation/guidance

### Well-being of Future Generations (Wales) Act 2015

#### How it protects the people we support

This is about improving the social, economic, environmental and cultural well-being of Wales. It 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. The Act puts in place well-being goals.

#### What it requires you to do if you become aware of harm, abuse and neglect

Get to know the well-being goals.

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## Legislation/guidance

### Regulation and Inspection of Social Care (Wales) Act 2016

#### How it protects the people we support

Provides a streamlined framework for the regulation and inspection of social care services in Wales. It moves towards a system and culture, which takes greater account of the impact that care and support services have on people's lives and well-being.

Brought into place Social Care Wales, which replaces the Care Council for Wales, and is the regulatory body with responsibilities for improving the quality of social care services. Social Care Wales is responsible for workforce registration and regulation of training. CSSIW has now become the Care Inspectorate Wales (CIW).

#### What it requires you to do if you become aware of harm, abuse and neglect

Get to know any standards or requirements that apply to your setting or role.

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## Legislation/guidance

### Mental Capacity Act 2005

#### How it protects the people we support

Protects the rights of individuals who cannot make decisions for themselves (lack capacity).

Protects the rights of individuals to make unwise decisions.

Any decisions made on behalf of an individual who lacks capacity must be in **their** best interest .

#### What it requires you to do if you become aware of harm, abuse and neglect

To act when the rights of the people you support are threatened, i.e. report any suspicions to an appropriate person.

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## Legislation/guidance

### Deprivation of Liberty Standards

#### How it protects the people we support

Protects the rights of people in care homes or hospitals.

Allows restraint and restrictions to be used – but only if they are in a person’s best interests.

Allows a resident or patient to be deprived of their liberty when they lack capacity to consent to their care and treatment, in order to keep them safe from harm.

#### What it requires you to do if you become aware of harm, abuse and neglect

To report any instances of an individual who wrongly is deprived of their liberty.

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## Legislation/guidance

### Mental Health Act revision 2007

#### How it protects the people we support

It requires hospitals to ensure that patients aged under 18, admitted to hospital for mental disorders, are accommodated in an environment that is suitable for their age (subject to their needs).

It minimises restrictions on liberty by stopping people being compulsorily detained, or their detention continued, unless appropriate medical treatment and all other circumstances of the case is available to that patient.

It involves patients in planning, developing and delivering care and treatment appropriate to them.

#### What it requires you to do if you become aware of harm, abuse and neglect

To report your suspicions immediately.

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## Legislation/guidance

### The Public Interest Disclosure Act 1998

#### How it protects the people we support

Introduced to protect employees who are worried about wrong doing where they work and want to ‘blow the whistle’. It applies to most employees and includes those employed on a temporary basis or through an agency. An employee who is victimised or discriminated against in any way because they have ‘blown the whistle’ (known as making a ‘protected disclosure’) can take their employer to an employment tribunal.

#### What it requires you to do if you become aware of harm, abuse and neglect

Ensure you know your organisation’s ‘whistle blowing’ procedures and follow them if you need to.

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## Legislation/guidance

### Safeguarding of Vulnerable Groups Act 2006

#### How it protects the people we support

Provides the legislative framework for a vetting and barring scheme for people who work with children and vulnerable adults, thereby preventing unsuitable individuals from working with children and vulnerable adults.

#### What it requires you to do if you become aware of harm, abuse and neglect

To report your suspicions immediately and to make sure you have the necessary checks.

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## Legislation/guidance

### Protection of Freedoms Act 2012

#### How it protects the people we support

This replaced the Criminal Records Bureau and the Independent Safeguarding Authority. They have merged to form the Disclosure and Barring Service. Extends the concept of checking individuals before they are engaged in regulated activity to cover unsupervised contact with children or vulnerable adults and the system of issuing certificates changed.

#### What it requires you to do if you become aware of harm, abuse and neglect

To report your suspicions immediately and to make sure you have the necessary checks.

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## Legislation/guidance

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

#### How it protects the people we support

The Act focuses on the prevention of these issues, the protection of victims and support for those affected by such issues.

Requires local authorities and their partners to develop consistent services in line with a national strategy. Local authorities will have to report on how they are addressing gender-based violence, domestic abuse and sexual violence in their areas.

#### What it requires you to do if you become aware of harm, abuse and neglect

You should know how to 'signpost' people to support and you should '**ask and act**' on issues of domestic violence.

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## Legislation/guidance

### Serious Crime Act 2015

#### How it protects the people we support

A mandatory reporting duty for female genital mutilation (FGM) has been introduced with the Serious Crime Act 2015. The duty requires regulated health and social care professionals, and teachers, in Wales to report known cases of FGM in under 18 year olds to the police.

#### What it requires you to do if you become aware of harm, abuse and neglect

It is a personal duty for registered professionals and applies if they are told about FGM by a girl under 18 or observe signs of FGM. Ordinarily reporting should be done within a day. Police and social care should then take immediate action. Suspected FGM should always be reported as a safeguarding concern.

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## Legislation/guidance

### The Counter Terrorism and Security Act 2015

#### How it protects the people we support

This Act contains a duty on specified authorities to have due regard to the need to prevent people from being drawn into terrorism. This is also known as the **prevent duty**.

#### What it requires you to do if you become aware of harm, abuse and neglect

The aim is to prevent people from being drawn into terrorism and ensure they are given appropriate advice and support.

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