



Children's Rights Impact Assessment (CRIA) Template

Title / Piece of work:	Safeguarding Regulations and Guidance arising from Part 7 of the Social Services and Well-being (Wales) Act 2014
Related SF / LF number (if applicable)	LF/MD/540/15
Name of Official:	Phil Mulraney
Department:	Dept for Health and Social Services
Date:	May 2015

Please complete the CRIA and retain it for your records on iShare. You may be asked to provide this document at a later stage to evidence that you have complied with the duty to have due regard to children's rights e.g. Freedom of Information access requests, monitoring purposes or to inform reporting to the NAFW.

Upon completion you should also forward a copy of the CRIA to the Measure Implementation Team for monitoring purposes using the dedicated mailbox CRIA@wales.gsi.gov.uk

If officials are not sure about whether to complete a CRIA, they should err on the side of caution and seek advice from the Measure Implementation Team by forwarding any questions to our mailbox CRIA@wales.gsi.gov.uk

You may wish to cross-reference with other Impact Assessments undertaken.

NB. All CRIs undertaken on legislation must be published. All non-legislative CRIs will be listed on the WG website and must be made available upon request. Ministers are however, encouraged to publish all completed CRIs.

Six Steps to Due Regard



Step 1. What’s the piece of work and its objective(s)?

The Social Services and Well-being (Wales) Act 2104 received Royal Assent on 1 May 2014, and will come into effect in April 2016. Sections 126-142 of the Act deal with the development of a coherent legal framework for adult and child protection, regulations to establish a National Independent Safeguarding Board and for the establishment of Safeguarding Boards for children and adults.

The Act also provides for authorised officers of a local authority to apply to the court for an “adult protection and support order”. Such an order will confer a power of entry to facilitate practitioners in speaking to an adult suspected of being at risk in private and enable them to ascertain whether that person is making decisions freely. Regulations under s127 may set restrictions on the persons or categories of persons who may be an authorised officer.

The Act provides for the creation of new Safeguarding Children Boards and the establishment of new Safeguarding Adults Boards. Board areas and lead partners are to be prescribed through regulations. The Boards are intended to promote partnership working between relevant partners. Board partners can be prescribed. In the case of Safeguarding Children Boards, their objectives are to protect children who are at risk of abuse, neglect or other harm and to prevent them becoming at risk of such harm. In the case of Adult Safeguarding Boards the objectives of the Boards are to protect adults in the Board’s area who have needs for care and support and are experiencing or at risk of neglect and to prevent adults who have needs for care and support from becoming at risk of abuse or neglect.

It is intended that regulations giving effect to the above will be laid before the Assembly in June 2015.

Step 2. Analysing the impact

The UNCRC and the Bill's compliance with it was raised during the passage of the Bill and was the subject of Ministerial correspondence with the Health and Social Care Committee and the Children and Young People Committee. In brief, the issues raised concerned the status of disabled children in the Bill, the provisions for merging Children Safeguarding Boards and Adults Safeguarding Boards, the Paramountcy Principle contained in section 1 of the Children Act 1989 and the parental refusal of a child's assessment. The correspondence confirms the Bill's compliance with the Rights of Children and Young Persons (Wales) Measure 2011 and, by extension, the UNCRC in relation to all of these points.

The Children's Commissioner for Wales, in his response to the consultation on the Bill, argued that the creation of a National Independent Safeguarding Board to consider safeguarding arrangements for both children and adults failed to take account of the need for special care for children through the promotion of the best interests principle contained in article 3 of the UNCRC, and that the new statutory framework for adults as set out in the Bill could dilute the clear focus on providing national direction on the safeguarding of children in Wales.

The National Independent Safeguarding (Wales) Regulations explicitly allow the National Board to establish supplementary groups to consider matters concerning the safeguarding of children or adults.

The Act takes forward Wales' distinctive and internationally regarded rights based approach to children's social care. The assessment of the impacts that the Act will have on children and young people confirms the rights based approach that is taken, reveals that many of the Articles are relevant and those listed below are being dealt with in the Act.

The rights conferred on children in the Act apply to all children regardless of any of their characteristics.

"Well-being" is a key concept throughout the Act. The definition of "well-being" in section 2(3) specifically ensures that it includes the physical, intellectual, emotional, social and behavioural development of children

The Act creates a comprehensive framework of general duties for local authorities and other public bodies towards children in their area combined with specific entitlements for individual children or their carers following assessment.

The Act's provisions in respect of Safeguarding Boards and of a duty to report a child at risk are intended to ensure that children are protected from violence, abuse and neglect by their parents or anyone else who looks after them in accordance with Articles 19 and 34

The Safeguarding Boards (Functions and Procedures) (Wales) Regulations will require Safeguarding Children Boards to co-operate with other Safeguarding Boards, both adult and children, and the National Board to contribute to and implement policies to improve the protection of children from abuse or neglect; to raise awareness; to facilitate research and to promote training. They must also give children an opportunity to participate in the work of the Board.

Step 3. How does your piece of work support and promote children's rights?

Articles most relevant:

Article 3 - All organisations concerned with children should work towards what is best for each child

Article 4 - Governments should make these rights available to children

Article 6 - All children have the right of life. Governments should ensure that children survive and develop healthily

Article 12 - Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.

Article 19 - Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

Article 34 - The Government should protect children from sexual abuse

Article 39 - Children who have been neglected or abused should receive special help to restore their self respect

The Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015

Regulation 6 requires Safeguarding Boards to give children or adults who are, or may be, affected by the exercise of the Board's functions, an opportunity to participate in the Board's work

National Independent Safeguarding Board (Wales) Regulations 2015

Regulation 7 requires the National Board to hold annual consultation meetings with persons representative of those who may be affected by arrangements to safeguard children and adults in Wales.

Section 7 of the Act requires a person exercising functions under the Act in relation to a child requiring care or support, or who is a carer, or who is a looked after child to have due regard to Part 1 of the United Nations Convention on the Rights of the Child. Any persons exercising a function under the safeguarding regulations must have regard to the provisions of the Act and therefore the UNCRC.

The Act strengthens existing safeguarding arrangements for children through the introduction of a new "duty to report" to the local authority and defines a "child at risk". Relevant partners including Health, Police and Probation will be required to inform the local authority where they have reasonable cause to believe a child to be at risk. Following such notification, local authorities will exercise their existing duty to investigate under section 47 of the Children Act 1989. The Act defines a "child at risk" as "experiencing or at risk of abuse, neglect or other kinds of harm, and has needs for care and support."

The CSSIW report 'Safeguarding Children in Wales' (2009) pointed to 'an imbalance in

how organisations and professionals discharge their responsibilities in relation to safeguarding and promoting the welfare of children, with too much reliance and expectation being placed on local authority social services. There is need to achieve a more consistent alignment of policy and practice across all organisations at national, regional and local levels to enable more effective working together to safeguard and protect children.’

Similarly, the Assembly’s Health, Wellbeing and Local Government Committee’s Report on Local Safeguarding Children Boards in Wales (2010) recommended that the Welsh Government should encourage a more collaborative approach between Local Safeguarding Children Boards.

This package of Regulations provides for a more coherent, coordinated and strategic approach to issues of safeguarding in Wales.

All provisions of the regulations relating to children are intended to improve outcomes referred to in the relevant articles of UNCRC (see above)

Step 4. Advising the Minister and Ministerial decision

The key outcome of this package of statutory and regulatory reform is to ensure that Safeguarding Board Partners are supported by more robust leadership and a stronger, more effective framework for multi-agency co-operation. This builds upon the finding of the CSSIW Report “Safeguarding and Protecting Children in Wales - The review of Local Authority Social Services and Local Safeguarding Children Boards” (2008)

The regulations also address the finding of the National Assembly’s Health, Wellbeing and Local Government Committee Inquiry into Local Safeguarding Children Boards in Wales (2010). The Committee made a number of recommendations and highlighted areas where Boards were not operating as effectively as they might. These included recommending that Welsh Government guidance should clarify where accountability lies between partnerships, should clarify the specific focus of Boards and their role in holding other partnerships to account, should address over reliance on local authority social services departments and should strengthen the duty to co-operate.

The Minister has been made aware of the considerations which informed this Impact Assessment throughout the development of the regulations.

A 12 week consultation on these regulations ran between 6 November 2014 and 2 February 2015. In addition a series of engagement events, in line with the formal consultation, were held which included representatives from the Association of Directors of

Social Services Heads of Children's Services. As a result of comments received from the formal consultation and the engagement events amendments were incorporated in to regulations and statutory guidance. A full report of the consultation and the analysis of responses can be accessed on the Welsh Government website:

<http://gov.wales/consultations/healthsocialcare/part7/?status=closed&lang=en>

Advice was given to the Minister throughout the consultation process on the amendments that were made to the regulations and statutory guidance.

Revised Policy Instructions: March 2015

Signature Submission Eligibility and Assessment Regulations: 2 June 2015

Step 5. Recording and communicating the outcome

Final version to be retained on i-share

The overall intended effect of this package of regulations and statutory guidance is to provide a coherent, common footprint for the establishment of safeguarding boards which will enable and support joint working across local government, health and police services, reducing complexity and duplication and producing improved safeguarding outcomes for children and adults at risk.

The evidence provided in Steps 1-3 above sets out in more detail the way in which rights of children and young people have been addressed in drafting the regulations and statutory guidance.

Draft regulations and statutory guidance were produced for consultation in relation to Part 7 of the Act, on safeguarding. The consultation period ran from 6 November 2014 to 2 February 2015.

As well as formal consultation, using various formats, officials gave presentations to groups, held discussions, attended one to one meetings, encouraged people to invite them to their existing meetings, and wrote articles and gave them to our partners to use within their networks. Stakeholders were asked to share information with their networks and feed back to Welsh Government.

The National Social Services Citizen Panel was asked to consider the consultation as individuals within their own networks, but also together as a Panel, where they produced reports to inform the consultation on integration, safeguarding, direct payments and paying for care.

As well as key contacts being encouraged to disseminate the consultation documents amongst their networks, to support wider engagement, Easy Read and children and young-people friendly versions were also produced and disseminated.

Once the Act comes into force in April 2016 child friendly literature on the Act will be developed.

Step 6. Revisiting the piece of work as and when needed

The Social Services and Well-being (Wales) Act 2014 contains provisions to allow for Ministers to monitor functions of the Act carried out by local authorities and other bodies. Ministers may require these bodies to report on their duties in implementing these regulations.

The newly established National Independent Safeguarding Board is required to report to the Welsh Ministers to assure Ministers that safeguarding and protection are being appropriately led, developed, challenged and promoted in Wales

Officials will continue to monitor the impact of the regulations in relation to UNCRC.

Budgets

As a result of completing the CRIA, has there been any impact on budgets?

It is important that where any changes are made to spending plans, including where additional allocations have been made, that this has been assessed and evidenced as part of the CRIA process.

No

Please give any details:

Monitoring & Review

Do we need to monitor / review the proposal?	No
If applicable: set the review date	No



THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

www.uncrcletsgetitright.co.uk

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Article 1

Everyone under 18 years of age has all the rights in this Convention.

Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

Article 3

All organisations concerned with children should work towards what is best for each child.

Article 4

Governments should make these rights available to children.

Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

Article 6

All children have the right to life. Governments should ensure that children survive and develop healthily.

Article 7

All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

Article 8

Governments should respect children's right to a name, a nationality and family ties.

Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

Article 11

Governments should take steps to stop children being taken out of their own country illegally.

Article 12

Children have the right to say what they think should happen, when adults are making

decisions that affect them, and to have their opinions taken into account.

Article 13

Children have the right to get and to share information as long as the information is not damaging to them or to others.

Article 14

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

Article 15

Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

Article 16

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

Article 17

Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

Article 20

Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

Article 21

When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

Article 22

Children who come into a country as refugees should have the same rights as children born in that country.

Article 23

Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

Article 25

Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

Article 26

The Government should provide extra money for the children of families in need.

Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

Article 29

Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

Article 30

Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

Article 31

All children have a right to relax and play, and to join in a wide range of activities.

Article 32

The Government should protect children from work that is dangerous or might harm their health or their education.

Article 33

The Government should provide ways of protecting children from dangerous drugs.

Article 34

The Government should protect children from sexual abuse.

Article 35

The Government should make sure that children are not abducted or sold.

Article 36

Children should be protected from any activities that could harm their development.

Article 37

Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

Article 38

Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

Article 39

Children who have been neglected or abused should receive special help to restore their self respect.

Article 40

Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

Article 41

If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

Article 42

The Government should make the Convention known to all parents and children.

For further information on the United Nations Convention on the Rights of the Child please visit: The Welsh Government's UNCRC Website: www.uncrcletsgetitright.co.uk/

Cic - The National Information and Advice Service for Young People www.ciconline.co.uk/news/

