

Explanatory Memorandum to The Local Safeguarding Children Boards (Wales)
(Child Practice Reviews) (Amendment) Regulations 2012

This Explanatory Memorandum has been prepared by the Department for Health, Social Services and Children and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Local Safeguarding Children Boards (Wales)(Child Practice Reviews) (Amendment) Regulations 2012.

Gwenda Thomas
Deputy Minister for Children and Social Services
30 June 2012

1. Description

- 1.1. These Regulations revoke Regulation 4 of the Local Safeguarding Children Boards (Wales) Regulations 2006 ('the Regulations') that requires that an LSCB undertake a Serious Case Review (SCR). The purpose of a SCR is to identify steps that might be taken to prevent a similar death or harm occurring to a child.
- 1.2. Regulation 4A is inserted in the Regulations which replaces the current SCR procedure with a new Child Practice Review (CPR) framework. The new framework will lead to a new more coherent tool for reviewing, learning and improving inter-agency child protection policy and practice.
- 1.3. Regulation 4B is inserted in the Regulations which imposes a duty on Local Safeguarding Children Boards to arrange and facilitate an annual programme of multi-agency professional forums.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1. None.

3. Legislative background

- 3.1. These Regulations amend the Local Safeguarding Children Board (Wales) Regulations 2006 which provide for functions of Welsh Local Safeguarding Children Boards in relation to the objective set before them by section 32 of the Children Act 2004.
- 3.2. These Regulations introduce CPRs which replace SCRs in Wales which were provided for in regulation 4 of the Local Safeguarding Children Board (Wales) Regulations 2006.
- 3.3. This instrument is subject to the annulment by the National Assembly for Wales (the negative procedure).
- 3.4. The Regulations will come into force on 1 January 2013.

4. Purpose and intended effect of the legislation

- 4.1. The purpose of these Regulations will be to introduce a CPR framework to replace the current SCR process.
- 4.2. Currently Local Safeguarding Children Boards have a statutory requirement to undertake a SCR where abuse or neglect is known or suspected in the death or serious harm of a child in order to identify

steps to prevent similar harm occurring. In October 2009 the Care and Social Services Inspectorate Wales published its report *Improving Practice to Protect Children in Wales: An Examination of the Role of Serious Case Reviews*. This report highlighted that LSCBs had expressed concerns about their taking too long and about the balance of resources invested. The length of time to complete some reviews reduced their contribution to achieving timely change and improvement in practice. At the same time, it was suggested that the balance of resources may be wrong, with more being directed at the process of reviewing and less at bringing about changes in practice.

- 4.3. The report recommended that a new, more coherent framework for reviewing, learning and improving policy and practice in child protection, which would embed learning into everyday action be developed.
- 4.4. Proposals were developed by a practitioner and policy based group – the Serious Case Review Advisory Group – which recommended different types of reviews dependent on the nature of the incident and circumstances of the child involved.
- 4.5. Under these Regulations, when abuse or neglect of a child is known or suspected and criteria specified in the Regulations are met, the Local Safeguarding Children Board must undertake concise child practice review or extended child practice review, depending on the circumstances.
- 4.6. Concise child practice reviews will be undertaken where the child was not on the child protection register within the six months preceding the relevant trigger event specified in the regulations. Extended child practice reviews will be undertaken where the child was on the child protection register within the six months preceding the relevant trigger event specified in the regulations.
- 4.7. The different categories of review ensure that appropriate issues are considered in a proportionate fashion and reflects the greater multi-agency involvement that will have taken place. Therefore the extended views will address additional issues such as the case history, robustness and appropriateness of the child protection plan and whether the respective statutory duties of agencies working with the child were fulfilled. This additional level of scrutiny is not required when a concise child practice review is undertaken.
- 4.8. These formal reviews will be under-pinned by Multi-Agency Professional Forums which will be held frequently and should allow practitioners and managers regular opportunity to examine multi-agency practice and inform future training and professional and personal development priorities.
- 4.9. The Regulations specify that when undertaking a CPR the review must ensure that perspectives of members of the family of the child are

obtained and that these family members contribute to the child practice review process, so far as is practicable and appropriate to the circumstances of the case.

4.10. Key elements of the CPR framework, set out in the Regulations are that:

- as part of a review a Multi-Agency Learning Event must take place. This is a planned and facilitated practitioner focused learning event with multi-agency practitioners who are, or have been, involved with the child and family. The purpose of the event is to examine recent practice and to improve future child protection policy and practice.
- they are organised and facilitated by a reviewer appointed by the LSCB. For a Concise Review there should be a single reviewer, but to ensure additional scrutiny and rigour two reviewers would be appointed when undertaking an Extended Review. Reviewers would be independent of direct involvement in the case work or case management in respect of the child who is the subject of the review.

4.11. At the conclusion of the review, the Regulations require that an anonymised CPR Report is produced and published which recommends the actions to be taken following the learning event; an action plan is also to be produced detailing the actions to be taken by the representative bodies to implement the recommendations of the child practice review report. The CPR report is to be submitted to the Welsh Government and published by the LSCB. This differs from the current SCR process which requires an overview report to be produced and only an Executive Summary published.

4.12. It is the responsibility of the LSCB to review and monitor the progress of the action plans as they should lead to improvements in child protection practice. In addition, the LSCB should include any issues which emerge from a CPR in the Board's future training and audit programmes or incorporate them into the work plan of the Multi-Agency Professional Forums.

4.13. A timeframe for carrying out a review will be set out in the supporting practice guidance to ensure that learning from reviews is still applicable and relevant. There is an expectation that the process will be completed as soon as possible, but in no more than six months from a referral to the LSCB for either a Concise or Extended Review.

5. Consultation

5.1. Whilst there has been no consultation on these Regulations, a full consultation has been undertaken on draft practice guidance produced to support the new framework. The Regulations are designed to be

enabling with the main detail of the new framework contained in the practice guidance. Every aspect of the Child Practice Review framework set out in provision in these Regulations was contained in the draft guidance consulted upon.

- 5.2. In addition, the underlying principles and mechanisms of the new framework on which the Regulations are based, prior to the public consultation been subject to extensive discussion and feedback, including a workshop of key stakeholders from across Wales held in June 2011.
- 5.3. The public written consultation on draft guidance for *Protecting Children in Wales, Arrangements for Multi-Agency Child Practice Reviews* ran for 12 weeks between January and April 2012.
- 5.4. In total there were 21 responses from a range of stakeholders including LSCBs and their statutory members. A copy of the Welsh Government's response to this consultation is included at Annex A.
- 5.5. As part of the consultation process, two practitioner workshop events were held - in Swansea and Conwy. Both events were well attended with in total over 60 practitioners from a range of agencies taking part. The purpose of these workshops was to raise awareness and seek practitioner views on the proposed new CPR arrangements.
- 5.6. In addition to the workshops the proposals for CPRs have been tested by three LSCBs in pilot reviews and their experiences have also fed back into helping to inform the development of the practice guidance. Two Concise and one Extended review have been undertaken.
- 5.7. Overall the response to the draft guidance and process was very positive. The consultation and engagement with stakeholders have helped to inform the development of the Regulations and practitioner guidance.

Next Steps

- 5.8. One of the key messages that has arisen from the consultation and the pilot projects was the need for practitioners to have sound knowledge of the framework and that appropriate training is provided along with robust implementation arrangements to support LSCBs
- 5.9. Welsh Government has begun to consider the options for a programme of training, which includes the creation of a pool of skilled reviewers which LSCBs can access. The intention is that a programme of training to support the implementation of the framework should be carried out prior to the Regulations coming into force. We have written to LSCBs and partner agencies informing them of this.

6. Regulatory Impact Assessment (RIA)

- 6.1. A Regulatory Impact Assessment has not been prepared for this instrument as there are no additional identifiable costs to LSCBs associated with the implementation of these amended Regulations.
- 6.2. The new Regulations are not imposing any additional costs on LSCBs, rather they are replacing an old system widely regarded as inefficient with a new more streamlined and effective framework.
- 6.3. It is not possible to identify the exact costs for LSCB partner agencies in undertaking a SCR as they vary on a case by case basis and are dependent upon the complexity of the case. The majority of costs are, in any event, intangible costs based on the time spent undertaking a review by the various multi-agency practitioners.
- 6.4. The new CPR framework provides for a far more constructive and effective use of practitioners' time. For example, a CPR should be completed as soon as possible but no more than 6 months from a referral from the LSCB to the sub group. Under the old SCR process it has not been unusual for a review to take over two years to complete. The LSCBs who have undertaken pilot CPRs have confirmed that the new framework has resulted in savings that would have been the case had a SCR review been undertaken.

Welsh Government response to the Consultation on “Protecting Children in Wales: Arrangements for Multi-Agency Child Practice Reviews – Draft Guidance”

Introduction

1. A public consultation on the draft guidance for *Protecting Children in Wales, Arrangements for Multi-Agency Child Practice Reviews* was held between January and April 2012.
2. The draft guidance sets out arrangements for Child Practice Reviews (CPRs) in circumstances of a significant incident where abuse or neglect of a child is known or suspected. It is addressed to all Local Safeguarding Children Boards (LSCBs) and partner agencies. The draft guidance sets out a system for Multi-Agency Concise and Extended CPRs that are fit for purpose in circumstances of serious incidents resulting from abuse or neglect. These changes are expected to lead to new learning which can support a process of continuous improvement in inter-agency child protection.
3. Responses were generally very positive and welcoming of the decision to introduce a more coherent framework for improving policy and practice in child protection. There has been a clear pattern of themes arising; specifically the need for further clarification on dealing with parallel reviews, dissemination of learning, and support for reviewers. The Welsh Government will be considering these issues along with other points raised during the finalisation of the practice guidance. From responses received there was widespread agreement that the guidance was user friendly and easy to understand.
4. The Welsh Government would like to take this opportunity to thank all those who responded to this consultation exercise. This document provides the Welsh Government’s response to the consultation and includes a summary of many of the key issues raised.

Responses

5. Respondents were invited to consider specific questions about the draft guidance and also encouraged to make any other points relating to them that they considered necessary.
6. In total there were 21 written responses received from the following groups:
 - LSCBs - 6
 - Health - 5
 - Local Authorities - 2
 - Police - 2

- Private Individuals - 1
- Other - 5

Preface

7. It was generally agreed that the preface provides a clear explanation of the proposed changes and what the new framework hopes to achieve in respect of key learning.
8. Most respondents agreed that the difference between the current Serious Case Review system and the new approach to learning and reviewing is transparent and clearly laid out in the guidance. One responder felt that although the new process is clearly laid out, acknowledgement should be made to the many positives of the current system which works well and could potentially be maintained in the new format.
9. Several respondents highlighted typographical errors and amendments required to the implementation date. The Welsh Government will amend these errors in the final guidance.

Section 2: Principles

10. This section sets out the principles which underpin the new process and the majority of respondents agreed that they are sufficiently clear and relevant.
11. There was the suggestion that a bigger emphasis should be put on the effective dissemination of learning regionally and nationally to ensure that all can learn from agency practice across Wales.
12. A high proportion of respondents welcomed the engagement, from the onset, of families in the process.
13. The Welsh Government is clear that the new framework should improve future practice so learning must be distributed on a regional and national basis; we will therefore aim to ensure that this is strengthened in the guidance. The inclusion of the child and family members is an important feature of the new process which hopes to foster the need to focus on accountability rather than culpability.

Section 3: Learning and Reviewing Framework

14. This section set out the key features of the new framework and feedback indicated that this has been clearly set out. A suggestion was made that it would be useful if the words 'the key features' were included in the title.
15. There were several suggestions regarding further information which should be contained in the guidance, such as dealing with cases of historic abuse, how to train as a facilitator and what support is available for practitioners.

16. The Welsh Government has started to consider historic abuse and this will be included in the final guidance. In addition, our intention is to contact stakeholders regarding plans for implementation and support of the new framework.

Section 4: Multi-Agency Professional Forums

17. Whilst the majority agreed this section explained clearly the role and purpose of Multi-Agency Professional Forums, several respondents thought that the intent was firm but that further clarity was needed especially in relation to dissemination of learning.
18. There were concerns raised regarding appropriate funding for LSCBs to carry out this work and it was considered to be beneficial for an audit tool relating to the new framework for LSCBs to be included in final draft of the guidance. The Welsh Government has considered these suggestions and will take them into account when finalising the draft guidance and looking at a programme of implementation.
19. Some respondents highlighted that potential practitioner culpability and representation needs should be addressed. Specifically, clarification was required on disciplinary procedures both in terms of staff in disciplinary processes being involved in the review process and in terms of sharing information that may lead to disciplinary procedures without undermining the need for openness and transparency in the process.
20. The Welsh Government will consider how to reflect this in the final guidance but is clear that the review process is about practice learning. If any issues of individual staff training needs or staff malpractice emerge during the course of a Concise Review, these matters should be managed through the relevant agency's own staff procedures.

Section 5: Concise Reviews

21. This section sets out the criteria for concise reviews and a high proportion of respondents agreed that it has been clearly explained.
22. Various respondents raised the need to be aware of the difficulties which may arise with parallel investigations such as homicide reviews and interaction with coroners and it would be welcomed if guidance on how to deal with any resulting delays could be provided. In addition, guidance was requested on cross border issues and reviews that straddle service providers in England.
23. Some respondents suggested that it would be helpful to include a paragraph on the role, function and membership of review sub-group panels.

24. One respondent stated that there was no longer a need for a specific reference to youth justice and that it was no longer appropriate for there to be a 'lead' agency for deaths in custody.
25. The Welsh Government intends to consider how to ensure this information is included succinctly in the finalised guidance.

Timelines

26. A significant change in the new framework is the requirement to provide a timeline rather than the current chronologies. The majority of responders welcomed the timeline process and felt it would allow for a more focussed review although some thought that a degree of flexibility will be required.
27. A number of people who responded thought that a definition of 'timeline' might be useful and there was a suggestion that guidance was needed on what should be in the summary. It was also considered helpful if guidelines could be produced for requirements regarding individual agency timelines, analysis and recommendations.

Reviewers

28. Most respondents agreed that there is sufficient independence in the proposed appointment of a reviewer. Some requested a clearer definition of the word 'independence'. A suggestion was made that it would be helpful and consistent to have a pool of trained and accredited reviewers.

Section 6: Extended Reviews

29. This section set out the criteria for extended reviews and it was agreed that the purpose and criteria was clearly explained. The consensus was that the additional issues to be addressed for scrutiny purposes are appropriate, although one point that did arise was that the term 'external' needs to be defined.
30. The majority of consultees felt that the appointment of two reviewers was appropriate and viable and one respondent suggested that agencies should not use the same reviewer all the time to avoid familiarity. The need for a database or resource of reviewers was highlighted as something that could be helpful. Another suggestion for consideration was that there should be the opportunity to co-opt with other LSCBs regarding the additional reviewer.

Questions relating to both Concise and Extended Reviews

Review panel

31. Most respondents agreed that the responsibilities set out for the Review Panel in setting up and managing Concise and Extended Reviews through to completion were clear and logical, however, it was considered helpful if there could be a separate heading and section for panels. With this in mind, it was considered useful to have a written agreement setting out the role of the panel and reviewers.

Family involvement

32. Although the consensus was that the involvement of family was welcomed further advice would be helpful on how to include them effectively and how to agree the relevant family members. It was also suggested that there should be written information available for family members and the management of family expectation should be more clearly addressed.

Child Practice Review Reports

33. Whilst the consensus was that there were no difficulties foreseen with the principles of transparency and accountability to publish anonymised reports of Concise and Extended Reviews, there were a few thoughts around these matters.
34. One such point was that there may, on occasion, be circumstances which would predicate against publication such as negative impact on family members or where there is potential for identifying the child involved. There must be scope to consider not publishing in these circumstances.
35. The Welsh Government has considered these suggestions and will take them into account when finalising the guidance.

Annex

36. The Annex was considered by the majority to be very helpful. Consultees provided helpful suggestions to enhance the information provided such as inserting hyperlinks to correlating information and flow charts to outline the process. There were also some typographical errors highlighted which the Welsh Government will amend in the final guidance.

Next steps

37. We have considered carefully the responses and revised the draft guidance accordingly. The Welsh Government believes that it is essential that the new framework is properly supported and that appropriate training is provided. Therefore, to ensure proper implementation arrangements are developed to support LSCBs we are currently considering what support we can put in place to ensure that the integrity of the new framework is not compromised. Alongside this work, we will amend the *Local Safeguarding Children Boards (Wales)*

Regulations 2006 to support the new framework. It is anticipated that implementation of the new framework and regulations will occur on 1 January 2013. The Welsh Government will write to stakeholders to update them on implementation arrangements.

Full list of respondents content to be identified.

1. Aneurin Bevan Health Board
2. Bridgend County Borough Council
3. British Association for Adoption and Fostering Cymru
4. Buddeg Nelson
5. Cardiff and Vale University Hospital Board
6. Cardiff Local Safeguarding Children Board
7. Carmarthenshire Safeguarding Children Board
8. Dyfed – Powys Police
9. Flintshire & Wrexham Local Safeguarding Children Board
10. Merthyr Tydfil & Rhondda Cynon Taf Local Safeguarding Children Boards
11. NASUWT Cymru
12. NEWFOCUS – Foster Care Service
13. Powys County Council
14. Safeguarding Children Service, Public Health Wales
15. South Wales Police
16. Swansea Safeguarding Children Board
17. The Children’s Commissioner for Wales
18. Welsh Ambulance Services NHS Trust

(3 respondents wished to remain anonymous)