

## **Explanatory Memorandum to the Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015**

This Explanatory Memorandum has been prepared by the Department for Health and Social Services 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 Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015. I am satisfied that the benefits outweigh any costs.

*Mark Drakeford*

Minister for Health and Social Services

**04 June 2015**

## **Part 1 – OVERVIEW**

### **Description**

1. The Social Services and Well-being (Wales) Act 2014 (“the Act”) brings together local authorities’ duties and functions in relation to improving the well-being of people who need care and support and carers who need support in a single Act. The Act provides the statutory framework to deliver the Welsh Government’s commitment to integrate social services to support people of all ages, and support people as part of families and communities.
2. These Regulations provide for the functions and procedures of Safeguarding Children Boards and Safeguarding Adults Boards which are established under section 134 of the Act.

### **Matters of special interest to the Constitutional and Legislative Affairs Committee**

3. There are no matters of specific interest to be brought to the attention of the Constitutional and Legislative Affairs Committee.
4. This Explanatory Memorandum should be read in conjunction with the Explanatory Memorandum to the Safeguarding Boards (General) (Wales) Regulations 2015 and the Explanatory Memorandum to the National Independent Safeguarding Boards (Wales) Regulations 2015.

### **Legislative background**

5. The powers enabling these Regulations to be made are contained in section 135(4) of the Social Services and Well-being (Wales) Act 2014
6. This instrument is subject to the affirmative resolution procedure.

### **Purpose and intended effect of the legislation**

7. The CSSIW report ‘Safeguarding Children in Wales’ (2009)<sup>1</sup> 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 a 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.’
8. The National Assembly for Wales Health, Wellbeing and Local Government Committee conducted an Inquiry into Local Safeguarding Children Boards in

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<sup>1</sup> [cssiw.org.uk/docs/cssiw/publications/091019overviewen.pdf](http://cssiw.org.uk/docs/cssiw/publications/091019overviewen.pdf)

Wales and reported in November 2010<sup>2</sup>. The Committee made a number of recommendations and highlighted areas where Boards were not operating as effectively as they might. These included recommending that the 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.

9. This package of Regulations provides for a more coherent, coordinated and strategic approach to issues of safeguarding in Wales. The functions set out in these Regulations will guide Boards as to how they can fulfil their objectives under the Act to protect children and adults at risk from abuse or other forms of harm. Regulations regarding user participation will ensure those affected by the functions of the Safeguarding Board are involved in its work.
10. Regulation 3 requires Safeguarding Boards to co-operate with other Safeguarding Boards and the National Independent Safeguarding Board ('the National Board') to:
  - contribute to the development and review of national policies and procedures;
  - implement policies and follow guidance provided by the National Board or the Welsh Ministers;

and to:

- raise awareness;
  - undertake relevant reviews and investigations;
  - review the efficacy of measures taken by the Board and make recommendations;
  - disseminate recommendations to other Boards and the National Board;
  - facilitate research;
  - promote and review training;
  - arrange an annual programme of multi-agency professional forums;
  - co-operate;
  - obtain specialist advice;
  - undertake concise or extended practice reviews.
11. Regulation 4 sets out the criteria to be applied by a Board in determining whether to conduct a concise or an extended practice review.
  12. Regulation 5 sets out the procedures to be followed by a Board in respect of matters such as the appointment of a Chair, majority voting and considering and securing opportunities for participation.

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<sup>2</sup> Health, Wellbeing and Local Government Committee Inquiry into Local Safeguarding Children Boards in Wales [http://www.cynulliad.cymru/en/bus-home/bus-third-assembly/3-committees/3-scrutiny/3-hwlg/business-hwlg-inquiries/hwlg3\\_lscb/Pages/hwlg3\\_lscb.aspx](http://www.cynulliad.cymru/en/bus-home/bus-third-assembly/3-committees/3-scrutiny/3-hwlg/business-hwlg-inquiries/hwlg3_lscb/Pages/hwlg3_lscb.aspx)

13. 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.

## **Consultation**

14. A 12 week consultation on these regulations ran between 6 November 2014 and 2 February 2015. Further details on the consultation process are set out in the Regulatory Impact Assessment in Part 2.

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **Options**

#### **Option 1: Do nothing**

1. In the event of these regulations not being made, no provision would be made for the functions and procedures of Safeguarding Children Boards and Safeguarding Adults Boards which are established under section 134 of the Social Services and Well-being (Wales) Act 2014.

#### **Option 2: Bring Regulations into Force**

2. Making the regulations will provide a consistent and coherent framework to Safeguarding Children Boards and Safeguarding Adults Boards as to how they must fulfil their objectives under the Act to protect children and adults at risk from abuse and neglect, and facilitate co-operation between Safeguarding Boards, and between Safeguarding Boards and the National Board.

#### **Costs and benefits for Option 1**

3. There would be no additional costs were these regulations not to be made. However, there would be the potential for a lack of clarity and consistency in the exercise by Safeguarding Boards of functions relating to the achievement of their objectives set out in sections 134(1) and (2) of the Social Services and Well-being (Wales) Act 2014, to protect children and adults at risk and to prevent abuse, neglect and other forms of harm to children and adults at risk within the area of the Board.

#### **Costs and Benefits for Option 2**

4. There are no additional costs associated with the making of these regulations. They are intended to assist Safeguarding Boards by providing a framework to clarify the manner in which they should be fulfilling their duties under the Social Services and Well-being (Wales) Act 2014.
5. They largely replicate provision that exists, in relation to Safeguarding Children Boards, currently in the Local Safeguarding Children Boards (Wales) Regulations 2006, as amended, made under section 32 of the Children Act 2004. As such, they provide a statutory basis for what should already be best practice for Safeguarding Boards and were strongly welcomed in the consultation responses received.
6. It is recognised that the introduction of Safeguarding Adults Boards will incur some costs. However, the configuration of Safeguarding Boards on the public service delivery footprint will deliver measureable cost savings on an all Wales basis as identified in paragraph 8.

7. Whilst not sharing a statutory basis similar to Local Children Safeguarding Boards (LSCBs), Adult Area Protection Committees (AAPC) have operated as parallel structures to LSCBs for many years. As with the statutory LSCBs, AAPCs have no operational budgets and the costs of determining and undertaking work are met by the relevant agencies. The cost of running an “average” AAPC, including opportunity costs, was estimated at £200,000 per annum in the then Deputy Minister for Social Services response to the Finance Committee in March 2013. Configuring Boards on the public service delivery footprint will deliver significant and measureable cost savings on an all Wales basis.
8. Figures provided by Safeguarding Boards to the Welsh Government indicate that the total budget for the 22 Local Safeguarding Children Boards in Wales for 2012-13 was £1.146 million whereas the total budget for the six Safeguarding Children Boards and six Safeguarding Adults Boards which have been established in anticipation of implementation of the Act was £0.834 million in 2014-15.

## Consultation

9. A 12 week consultation on these regulations ran between 6 November 2014 and 2 February 2015.
10. The Report and a list of respondents can be found at:

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

## Competition Assessment

### Competition Assessment

| <b>Competition Filter Test</b>   |                  |
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| Question   | Answer yes or no |
| Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?                              | No               |
| Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?                              | No               |
| Q3: In the market(s) affected by the new regulations do the largest three firms together have at least 50% market share?         | No               |
| Q4: Would the costs of the regulation affect some firms substantially more than others?  | No               |
| Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisations?            | No               |
| Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet? | No               |

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|---|----|
| Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q8: Is the sector characterised by rapid technological change?  | No |
| Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?     | No |

11. The filter test shows that it is not likely that the regulation will have any detrimental effect on competition; therefore a detailed assessment has not been conducted.

12. We do not consider it necessary to undertake a competition assessment for these Regulations since they will not affect the business sector in any significant way

### **Post implementation review**

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

14. The Welsh Government will continue to monitor the impact of the Regulations on areas such as the Welsh language, tackling poverty, equality and the United Nations Principles for Older Persons.

15. As required by the Rights of Children and Young Persons (Wales) Measure 2011, the Welsh Ministers will have due regard to the UN Convention on the Rights of the Child when exercising relevant functions under the Act.