

APPENDIX 20: LEGISLATION FOR THE PROTECTION OF CHILDREN AND ADULTS AT RISK – WALES

The Welsh Assembly has adopted the United Nations Convention on the Rights of the Child as a guide to all its work. Local authorities are responsible for investigating and intervening to protect children from abuse and neglect.

[Wales Safeguarding Procedures \(2019\)](#)

for Adult and Child Protection guide and inform child protection practice in each of the Local and Regional Safeguarding Children Boards across Wales. They outline the framework for determining how individual child protection referrals, actions and plans are made and carried out. They are based on the principle that the protection of children and adults from harm is the responsibility of all individuals and agencies working with children and families, and with adults who may be at risk. Partnership working and communication between agencies is identified as key in order to identify vulnerable children and to help keep them safe from harm and abuse.

Social Services and Well-being (Wales) 2014 [in effect from April 2016] introduced a new statutory framework to strengthen safeguarding. It introduces a new structure for Safeguarding Boards (both adults and children) and a National Independent Safeguarding Board. It also introduces a new duty on statutory agencies (i.e. police, providers of probation services, local health boards) to report concerns of abuse. Follow this link for an NSPCC summary.

[Children Act 1989](#)

Places a duty on local authorities to promote and safeguard the welfare of children in need in their area. It gives powers for the investigation of child protection concerns and the support of families. It institutes the principle of the child's welfare being our paramount consideration.

[Children Act 2004](#)

Requires local authorities to make arrangements to promote cooperation between relevant partners with a view to improving the well-being of children locally. Part three of the Children Act 2004 applies solely to Wales.

[Children and Young People: Rights to Action](#)

The wider context for the implementation of child protection in Wales is informed by the Welsh Government's commitment to children's rights.

[Social Services and Well-being Act \(Wales\) 2014](#)

Strengthening powers for safeguarding children and vulnerable adults. The Act provides Wales with its own framework for social services by:

- giving individuals a stronger voice and more control over the care and support they receive
- encouraging a renewed focus on prevention and early intervention.

[Safeguarding Vulnerable Groups Act 2006](#) and [Protection of Freedoms Act 2012](#)

Legislative basis for the Disclosure and Barring Service (DBS) which checks criminal records and makes decisions about individuals who should be barred from working with children and adults.

[Mental Capacity Act 2005](#)

There will be circumstances where an individual adult appears not to be able to make a decision about whether to consent to information being shared with others. The Mental Capacity Act and the associated code of practice contain guidance about the consideration of a person's capacity, or lack of capacity, to give consent to sharing information. The starting assumption must be that the person has capacity unless it is established that they do not, and only then after all practical steps to help the person make the relevant decision have been taken but have been unsuccessful. An unwise decision taken by the relevant person does not mean they lack capacity. Where a decision is made on behalf of the person who lacks capacity to share personal information, it must still comply with the requirements of the Data Protection Act and be in their best interests.

References and Resources

[Children's Commissioner for Wales \(2021\) The right way: a children's rights approach for social care in Wales \(PDF\)](#). Swansea: Children's Commissioner for Wales.

[Home Office \(2016\) Mandatory reporting of female genital mutilation – procedural information \(PDF\)](#). London: Home Office.

[Home Office \(2023\) Response to the final report of the Independent Inquiry into Child Sexual Abuse.](#)

[IICSA \(2022\) IICSA: report of the Independent Inquiry into Child Sexual Abuse.](#)

[Office of the United Nations High Commissioner for Human Rights \(OHCHR\) \(1989\) Convention on the Rights of the Child](#). Geneva: OHCHR.

[Welsh Government \(2021\) Safeguarding guidance.](#)

[Welsh Government \(2019\) Children's rights in Wales.](#)

[Welsh Government \(2023\) Welsh Government response to the independent inquiry into child sexual abuse.](#)