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**Ymateb i Ymgynghoriad / Consultation Response**

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<b>Pwnc / Subject:</b>	Draft keeping learners safe guidance

**Background information about Estyn**

Estyn is the Office of Her Majesty's Inspectorate for Education and Training in Wales. As a Crown body, Estyn is independent of the Welsh Government.

Estyn's principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Learning and Skills Act 2000 and the Education Act 2005. In exercising its functions, Estyn must give regard to the:

- Quality of education and training in Wales;
- Extent to which education and training meets the needs of learners;
- Educational standards achieved by education and training providers in Wales;
- Quality of leadership and management of those education and training providers;
- Spiritual, moral, social and cultural development of learners; and,
- Contribution made to the well-being of learners.

Estyn's remit includes (but is not exclusive to) nurseries and non-maintained settings, primary schools, secondary schools, independent schools, pupil referrals units, further education, adult community learning, local government education services, work-based learning, and teacher education and training.

Estyn may give advice to the Assembly on any matter connected to education and training in Wales. To achieve excellence for learners, Estyn has set three strategic objectives:

- Provide accountability to service users on the quality and standards of education and training in Wales;
- Inform the development of national policy by the Welsh Government;
- Build capacity for improvement of the education and training system in Wales.

This response is not confidential.

## Introduction

Estyn welcomes this revision of *Keeping Learners Safe* and the clear and comprehensive advice it contains.

This guidance sets out clearly the responsibilities for schools and colleges arising from the *Education Act 2002*, and provides appropriate guidance for schools, colleges and work-based learning providers, about their duties and how to act in order to protect any child at risk. However, the value of the guidance to other education professionals, such as staff in local authority and voluntary sector youth services, non-maintained nursery provision, and youth justice workers, is not clearly stated. Although the latter provision sits outside that covered by the *Education Act 2002*, the guidance is still relevant to staff in these sectors.

The adoption of the pointers 'must', 'should' and 'effective practice' are very useful and are used well to identify how the guidance impacts upon the different audiences.

The extent of the revision within this version of *Keeping Learners Safe* identifies a need to ensure all education staff have access to an appropriate and up-to-date training regime. This training needs to help them understand the key issues arising from this guidance and that impact directly on their professional duties. The current consultation on guidance relating to *Safeguarding children from child sexual exploitation* also contains specific guidance for education professionals. The detail in this guidance and the focus on education professionals' responsibilities will also require additional focused training. There is an opportunity to synchronise training relating to both *Safeguarding children from child sexual exploitation* and *Keeping Learners Safe*.

Estyn welcomes the development of the *All Wales Practice Guides* in relation to children in specific safeguarding circumstances which include an *All Wales Practice Guide* on safeguarding children at risk of Child Sexual Exploitation (CSE), which will help education professionals alongside other services in the discharge of their duties.

The revised guidance *Keeping Learners Safe* will help Wales meet its international obligations to ensure every learner enjoys their rights to be:

- Treated with fairness, respect and dignity
- Able to access justice
- Free from all forms of violence, harm and degrading treatment.

The guidance will make a particular contribution to Article 19 of the United Nations Convention on the Rights of the Child (UNCRC). This sets out government responsibilities to protect children from all forms of violence and without compromise:

*"States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of*

parent(s), legal guardian(s) or any other person who has the care of the child.

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement”<sup>1</sup>.

This guidance will strengthen the contribution of education professionals to securing a holistic national approach that protects children and all other learners from the threat of violence, harm, exploitation and abuse<sup>2</sup>.

### Consultation Questions

**Question 1** – Do you agree that the draft amendments made to the updated KLS guidance are appropriate and effective? If not, what further amendments do you think are necessary?

<b>Agree</b>	<input checked="" type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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### Supporting comments

Estyn agrees that the draft amendments to *Keeping Learners Safe* (KLS) are appropriate and effective. They focus the guidance better on education provision, and set out more clearly the duties for education professionals within the context of their working environments.

Although the guidance arises from duties under section 175 of the Education Act 2002, the principles, detailed guidance, and explanation of duties are useful for education professionals working in settings not covered by that act, for example the local authority and voluntary sector youth service providers, and non-maintained nursery providers. The relevance of the guidance contained in KLS for these services could be identified more explicitly at the start of the document.

Under the section defining safeguarding (P2), the opening sentence, “Safeguarding is protecting children from abuse, neglect or other kinds of harm, and educating those around them to recognise the signs and dangers”, provides a useful round up of the issue. However, it would be helpful to expand more on what constitutes ‘harm’ in this context, as this goes beyond simple child protection definitions.

<sup>1</sup> UN Committee on the Rights of the Child (1989)

<sup>2</sup> UN Committee on the Rights of the Child (2011) *General Comment No. 13: The right of the child to freedom from all forms of violence*. [pdf] Available online at: [https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13\\_en.pdf](https://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf) Accessed on: 23/09/2019

Safeguarding in education generally encompasses a very wide range of sources of harm and covers issues such as:

- inappropriately managed duty of care by school staff where pupils' whereabouts and wellbeing are not proactively monitored when these young people are educated off site or sent home early from school
- poorly maintained teaching and learning environments
- poorly applied behaviour management
- emotional and physical 'bullying' of pupils by education staff
- peer-on-peer bullying between children, including physical assaults and emotional abuse
- the provider's poorly applied duty of care following accidents and injuries whilst on site.

Although it is not effective to list exhaustively such issues, it would however be helpful to include some idea of the breadth of the issues considered to be within the scope of safeguarding in education.

In paragraph 3.38, the text identifies "*Children with an additional learning need may be at an increased risk of being abused or neglected compared with their peers*". Is this use of the phrase "additional learning needs" consistent with the recently clarified definitions of additional learning needs, and "special education needs" as found in the Additional Learning Needs and Education Tribunal (Wales) Act 2018? It is important that the difference between ALN and SEN is recognised, and the resulting differences in risks are considered.

The way the phrases 'Child Protection' and 'safeguarding' is confusing in parts of the KLS document. It is unclear if these phrases are discrete and refer to separate things (as is suggested in KLS's definition of safeguarding, where Child Protection is identified as a sub-set) or if in certain circumstances they mean the same thing and are used interchangeably. For example, when read together, paragraphs 4.1-4.3 seems to suggest that a provider should have separate Child Protection and safeguarding policies. However, elsewhere in KLS in Appendix 1 the model policy is a safeguarding policy. This suggest that there are some inconsistencies within the text of KLS regarding these two terms. These inconsistencies should be resolved, preferably maintaining safeguarding as the overarching term with Child Protection being used specifically for those categories of abuse which impact on a child being at risk of significant harm as defined by the Social Services and Well-being (Wales) Act 2014.

**Question 2** – Do you agree with the role and responsibilities outlined in the KLS guidance for both the Designated Senior Person (DSP) for child protection and local authority lead officer for safeguarding? If not, what further amendments do you think are necessary?

<b>Agree</b>	✓	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments**

The guidance for the role of the DSP is clear and comprehensive. It sets out well the requirements upon both the provider and the individual officer taking up that role. In particular, it helpfully clarifies the level of training required for this person, as well as the level of authority that person requires in order to discharge their duties within the provision.

**Question 3** – Do you think that the safeguarding audit tool provides the right level of support for schools?

<b>Agree</b>	✓	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments**

The audit tool is comprehensive and is usefully designed to operate on a ‘process basis’ rather than as a simple compliance-based checklist. The tool, however, might prove too detailed for easy use as part of an audit process. In those cases, this is likely to shift the process away from useful and practical evaluation and into a more superficial completion. Keeping Learners Safe does not reference other safeguarding audit tools, which means providers might not know about them, or their ability to contribute to robust provision and monitoring. The two key tools are the Welsh Government’s Respect and Reliance self-assessment toolkit for schools, which addresses issues around radicalisation and extremism, and the Hwb 360 audit tool for on-line safety.

**Question 4** – On publication of the final KLS guidance following this consultation, a programme of implementation will commence. What implementation activity (training and/or awareness raising for specific audiences, for example) do you consider will be necessary?

**Supporting comments**

The promotion of the revised KLS document and the guidance it contains should be focused initially on all those in management and safeguarding positions within education provision. Specific training may be needed for providers of non-maintained nursery provision. This could be available through local authority support arrangements for non-maintained nursery provision. This also presents an opportunity to include in this training guidance which shows how CIW’s National Minimum Standards for this sector dovetail with Keeping Learners Safe. The current consultation on guidance relating to *Safeguarding children from child sexual exploitation* also contains specific guidance for education professionals. The detail in this guidance and the focus on education professionals’ responsibilities will also require additional focused training. There is an opportunity to usefully synchronise this.

**Question 5** – We would like to know your views on the effects that the KLS guidance has on the Welsh language, specifically on:

- i) opportunities for people to use Welsh
- ii) treating the Welsh language no less favourably than the English language.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

**Supporting comments**

Estyn does not foresee the proposals having any adverse or negative impact on the Welsh language.

The guidance appropriately identifies in section 3.33 the need for ‘All those working in a school or college should ensure that the active offer principle of the use of the Welsh language is embedded in practice.’ This is helpful.

**Question 6** – Please also explain how you believe the proposed policy could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

**Supporting comments**

See comment above for question 5.

**Question 7** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

**Supporting comments**

Note, not all hyperlinks for documents quoted in the guidance document’s text work, these need to be re-mapped.

No further comments