

## PROTOCOL

### THE ROLE OF ELECTED MEMBERS IN SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

#### **1. Purpose of the Protocol**

To provide guidance and advice to elected Members on:

- their roles and responsibilities in relation to safeguarding children and vulnerable adults and
- on how Members should raise any concerns and receive assurance about children and adults who may be at risk.

#### **2. Definitions**

This Protocol uses the terms used by professionals to describe certain groups of individuals, which are defined as follows:

“Advocate” means a person accredited or recognised as competent to act as an advocate by an independent advocacy organisation

“Care leavers” – means young people who have been looked after by the local authority and who the local authority has a duty to continue to support until they reach the age of 21 or remain in education or training (if longer).

“Children at risk of harm” – means children about whom there are concerns that they are or may be at risk of suffering harm through abuse or neglect, including any child named on the Child Protection Register.

“Children In Need” – means any child who has been assessed as being unlikely to achieve or maintain a reasonable standard of health or development without access to services (including all disabled children and any child named on the Child Protection Register).

“Looked After Children” – means children who are looked after by the local authority through a Care Order made by court or by agreement with the parent/s.

“Vulnerable Adult” - means a person over 18 years of age who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or serious exploitation.

#### **3. The Role of the Council and its elected Members**

3.1 All Members of the Council have a strategic role in relation to social services issues and need to satisfy themselves that the Council as a

whole is discharging its statutory responsibilities and demonstrates good practice wherever possible.

- 3.2 A number of high profile public inquiries have highlighted the importance of ensuring that child protection services are prioritised and adequately resourced, and all elected Members have responsibility in this regard.
- 3.3 The Council as a whole is the 'corporate parent' of all Looked After Children, which means that elected Members, relevant Council managers and staff all need to work together to discharge their different roles and responsibilities, to ensure the best possible care and opportunities are made available.
- 3.4 Members have an important role to play in safeguarding children and vulnerable adults, as the eyes and ears in the community, where ward surgeries and local ward networks enable Members to be alerted to early signs of safeguarding concerns, whether general patterns of behaviour or concerns about a particular child or vulnerable adult.
- 3.5 The Members of the Cabinet, the Corporate Parenting Committee, the Children and Young People's Scrutiny Committee and the Community and Adults Scrutiny Committee have additional specific responsibilities, as outlined in section 9 below.

#### **4. Responsibilities of Members**

- 4.1 It is the responsibility of all elected Members to bring any concerns they have about vulnerable children or adults to the attention of the responsible officer, depending on the nature of the concern, as set out in sections 5 and 6 below. **If a Member is concerned that a child or vulnerable adult may be at risk of harm, this should be reported immediately - please see section 5 and the Contact List at the end of this Protocol.**
- 4.2 Elected Members may also wish to make representations on behalf of their constituents in order to satisfy themselves that concerns or problems are being dealt with appropriately. Good practice dictates that Members should only be involved in casework issues within their own ward.
- 4.3 Whilst local ward Members have an important role to play in responding to the concerns of their constituents, they must be mindful of their obligations under the Members' Code of Conduct, in particular:

- 4.4 Personal interests - Members must be mindful of their duty under the Members' Code of Conduct to disclose any personal interest in a particular case in which they may be making representations. For example, a personal interest may arise from the Member's personal relationship with a service user or from the Member's involvement in a particular organisation. Members must ensure that their personal or private interests do not conflict with their public duties, to the Council as a whole or to all ward constituents.
- 4.5 Advocacy for Service Users - It is not generally appropriate for an elected Member to act as an advocate for a service user, due to the potential conflict of interest and confusion over the role in which the member is acting. Elected Members are part of the Council and have a duty to represent all ward constituents fairly and equally; whereas the role of an advocate is to provide emotional support to an individual and help them to understand the process and to raise questions and issues as necessary. An elected Member seeking to act as an advocate is likely to have an actual or perceived conflict between his/her duties to: (i) the Council and its officers, (ii) the individual service user, and (iii) other ward constituents. A Member's involvement may also create an impression of undue influence being exerted in any relevant decision making process, in view of the Member's position within the Council. It is only in exceptional circumstances (such as where a Member is a family member of a service user or is a professional advocate), that it may be appropriate for a Member to act as an advocate for a service user. However, any such exceptional circumstances must be explained and agreed in advance with the Director of Social Services or the Monitoring Officer. The Council has a responsibility to ensure that service users have access to advocacy services wherever necessary, and can provide contact details for independent advocacy service providers and professional advocates upon request.
- 4.6 Criticism of Officers - Members should ensure that any concerns about Council officers are raised with the relevant Director (or the Chief Executive) in accordance with the Protocol on Member / Officer Relations, as staffing issues are the statutory responsibility of the Chief Executive, as Head of Paid Service. Members should note that recent caselaw regarding a Councillor's right to freedom of expression under Article 10 of the European Convention on Human Rights (Heesom v. Public Services Ombudsman for Wales 2014) has held that:
- Council officers are not expected to tolerate the same level of criticism as politicians during political debate

- Unwarranted criticism of officers by Councillors damages the mutual duty of trust and confidence between Councillors and officers, and that
- There is a public interest in ensuring that officers are not subjected to unwarranted criticism which could undermine the performance of their public duties and public confidence in the administration.

4.7 Political / Public Debate - When raising issues politically in public debate, during Council meetings, using social media etc, Members must ensure their comments do not disclose confidential information or personal information about identifiable individuals; must not make unwarranted criticism of officers (see above); and must not conduct themselves in a manner likely to bring the Council (or the office of Councillor) into disrepute.

## 5. **What to do if you are concerned that a child or vulnerable adult may be at risk of harm?**

5.1 If a Member has any information which raises concerns about harm or potential harm to any child, a child protection referral should be made immediately to the Children's Access Point or, if outside of office hours, to the Emergency Duty Team (please see Contact List at the end of this Protocol) where an experienced Social Worker will ensure Child in Need or Child Protection Procedures are instigated if needed, and will provide you with any required advice and guidance.

5.2 If any information raises concerns about harm or potential harm to a vulnerable adult, these concerns should be reported immediately to the Protection of Vulnerable Adults (POVA) Support Team or, if outside of office hours, to the Emergency Duty Team (please see Contact List at the end of this Protocol) where an experienced Social Worker will ensure that any appropriate procedures are instigated, and will provide you with any required advice and guidance.

5.3 **If a Member has concerns about immediate danger needing an emergency response or thinks a crime is being committed, the police should be contacted on 101 or 999. You should never delay taking emergency action to safeguard a child or vulnerable adult.**

## 6. **Who else to Contact?**

If a Member has a general safeguarding concern, which is not related to a specific child or vulnerable adult, the Member should bring this to the attention of the Operational Manager, Safeguarding Children and Vulnerable Adults,

the Assistant Director of Children's Services or the Assistant Director of Adult Services (as appropriate), or the Director of Social Services.

## **7. What To Expect?**

- 7.1 All concerns will be investigated and assurances given to the Councillor that the welfare of the child or vulnerable adult is being safeguarded.
- 7.2 All referrals of children or vulnerable adults at risk of harm will be promptly investigated and a response will be given to the Councillor within 24 hours to confirm that appropriate action has been taken. The Council will not, however, be able to confirm the outcome of any particular investigation due to confidentiality and data protection laws (explained in section 8 below).
- 7.3 Any general queries or concerns will be carefully considered and a response will be given to the Councillor within 10 working days. If a full response cannot be provided within 10 working days, the response will indicate a reasonable timescale within which a full reply will be given.
- 7.4 Any complaints made by or on behalf of service users will be considered in accordance with the Council's complaints procedures, which fully comply with all relevant statutory provisions and best practice.
  - (i) Complaints about the handling or outcomes of child protection conferences will be dealt with under the 'Procedure for handling complaints from parents, caregivers and children about the functioning of the child protection conference' (based on the All Wales Protocol). This procedure is appended as Annex 1 to this Protocol.
  - (ii) All other complaints about Cardiff Social Services will be dealt with under the 'Social Services Complaints Policy and Procedure' (established in accordance with The Social Services Complaints Procedure (Wales) Regulations 2014 and The Representations Procedure (Wales) Regulations 2014). This procedure is appended as Annex 2 to this Protocol.

## **8. Members' Rights to Information and Information Sharing**

- 8.1 The Protocol on Members' Rights of Access to Information and Documents (set out in Part 5 of the Constitution), sets out Members' rights to information held by the Council and how to access such information.

- 8.2 Under the “need to know” principle, all Members have a right to inspect any Council documents *if* access to the documents is reasonably necessary to enable the Member to properly perform their duties as a Member of the Council. However, access to personal information is restricted by data protection legislation (see below); and any information provided under the “need to know” principle must only be used in connection with the Member’s duties as a Councillor, and must not be disclosed to any other persons (unless and until the information properly enters the public domain).
- 8.3 The Council will ensure that all elected Members have access to general information about trends and issues affecting children and vulnerable adults as well as the quality and range of services provided.

### **Personal information / Information about individual cases**

- 8.4 Information relating to individuals is protected (as ‘personal data’) under data protection legislation (and such information may also be confidential). Personal data includes any information relating to an identifiable individual, even if the individual is not explicitly named. General advice on Members’ data protection responsibilities is set out in the ‘Data Protection’ section of the Members’ Handbook.
- 8.5 The Council is legally responsible (as the ‘Data Controller’) for personal information held by the Council (or held by Members for the purpose of Council business). Each elected Member is legally responsible (as ‘Data Controller’) for personal information held for constituency work purposes. The Council and all elected Members must carefully consider, on a case by case basis, their legal obligations in respect of any particular personal information they may hold.
- 8.6 The law requires that all personal information must be handled fairly, lawfully and securely. In particular, personal information about individual cases *must not be disclosed without the consent of the individual/s concerned*, unless a legal exemption applies. This means that the Council can only disclose information about individual cases to Members if it is satisfied that the individual/s concerned have consented to such disclosure.
- 8.7 In their ward Member role, if a Member is asked by a ward constituent to assist them in resolving a social services matter, the Member will be dealing with personal information, some of which will be sensitive personal information (defined by law as information about a person’s racial or ethnic origin; political opinions; religious beliefs; trade union membership; physical or mental health or condition; sexual life; alleged

criminal activity; or court proceedings, and subject to additional legal restrictions).

8.8 Members must ensure that:

- The individual/s concerned understand how the Member intends to use their personal information and have consented to this.
- If the Member intends to make enquiries with the Council about a particular case, then the Member must obtain written consent from all individuals involved, expressly authorising the Council to disclose their personal information to the Member; and provide a copy of this consent to the Council.
- All personal information relating to individual cases must be used only as necessary and appropriate in order to take the agreed action on behalf of the individual; and must not be used or disclosed for any other purpose, for example, for political purposes.
- Members must have robust systems for holding personal information securely and only for as long as necessary.

8.9 Further advice is available from the Council's Information Manager. The Information Commissioner's Office website also publishes helpful guidance for Councillors on their data protection responsibilities (see Background Documents listed at the end of this Protocol).

## 9. Decision makers and Accountability

In addition to the strategic role of full Council, referred to in section 3 above, the key decision makers and their accountabilities are as follows:

### **Cabinet; Cabinet Member, Early Years, Children and Families; and Cabinet Member, Health, Housing and Wellbeing**

9.1 The Cabinet has a collective corporate leadership role and decision making powers in respect of children's and adults' services, subject to compliance with the Council's approved Policy Framework. The Cabinet Member, Early Years, Children and Families (and Lead Member for Children's Services) has particular responsibility to lead and inform the Cabinet's work on child protection, corporate parenting and safeguarding children matters. The Cabinet Member, Health, Housing and Wellbeing has particular responsibility to lead and inform the Cabinet's work on adult social care and safeguarding vulnerable adults matters. Both Cabinet Members are regularly briefed by the Statutory Director of Social Services on the performance of social

services functions, any identified weaknesses and recommended improvement actions.

### **Statutory Director of Social Services**

9.2 The Statutory Director of Social Services is responsible for providing professional leadership and discharging core responsibilities in respect of all social services functions of the Council. The Director makes a Statutory Annual Report to Cabinet on the discharge of the Council's social services functions, including a report on all social services complaints.

### **Corporate Parenting Advisory Committee**

9.3 The Corporate Parenting Advisory Committee is responsible for advising the Council and the Cabinet on the discharge of the authority's corporate parenting functions. The Committee receives a 6 monthly Independent Reviewing Officer report, and a quarterly report of all complaints concerning children's services (in anonymised form) to check that appropriate action has been taken in response to all complaints.

### **Children and Young People's Scrutiny Committee**

9.4 The Children and Young People's Scrutiny Committee is responsible for scrutinising, measuring and actively promoting improvement in service provision and compliance with the Council's approved policies, aims and objectives in relation to children and young people, including children's social services.

### **Community and Adult Services Scrutiny Committee**

9.5 The Community and Adult Services Scrutiny Committee is responsible for scrutinising, measuring and actively promoting improvement in service provision and compliance with the Council's approved policies, aims and objectives in relation to community and adults' services, including adults' social care services.

### **CONTACTS LIST:**

The Children's Access Point (CAP)	029 2063 6490
POVA Support Team (Protection of Vulnerable Adults)	029 2053 6436
Emergency Duty Team (out of hours)	029 2078 8570



Operational Manager, Safeguarding Children and Vulnerable Adults 029 2087 3830

Assistant Director of Children's Services 029 2087 3803

Assistant Director of Adult Services 029 2087 3803

Director of Social Services 029 2087 3803

Operational Manager, Information Management 029 2087 3340

## APPENDICES

- Annex 1 'Procedure for handling complaints from parents, caregivers and children about the functioning of the child protection conference', Cardiff and Vale of Glamorgan, Local Safeguarding Children Board
- Annex 2 'Social Services Complaints Policy and Procedure', City of Cardiff Council

## BACKGROUND DOCUMENTS:

Welsh Government Guidance 'If this were my child.. A councillor's guide to being a good corporate parent to children in care and care leavers'

Cardiff Council Social Media Guidance

Informal Protocol on Member Involvement in Other Wards

Protocol on Member / Officer Relations

Protocol on Members' Rights of Access to Documents and Information

Members' Handbook, 'Data Protection' section

Information Commissioner's Office, 'Advice for elected and prospective councillors – Data Protection Act'