



S4C Child Protection Policy

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THIS DOCUMENT IS ALSO AVAILABLE IN WELSH AT

<https://www.s4c.cymru/cy/cynhyrchu/page/1154/canllawiau/>

1. Introduction and Purpose

- 1.1 Working with Children¹ and young people is a privilege which brings with it a responsibility to keep them safe. S4C is committed to ensuring that Children involved in the work of S4C are safeguarded and their rights protected at all times. Therefore for all Staff members the safety and welfare of Children and young people is of paramount consideration.
- 1.2 The purpose of this Policy is to provide a consistent and clear process and expectations as to how S4C will seek to protect Children through both its own practices, and by influencing other organisations commissioned by it to provide services or produce programmes to do likewise. Although drawn up on the basis of relevant law and guidance, this Policy is not intended to provide legal advice, therefore S4C Staff should consult the S4C Legal Unit for any specific legal queries in relation to the welfare of Children. Producers and external suppliers should seek their own legal advice. Further information about Child Protection in Wales can be found in the All Wales Child Protection Procedures 2008 a copy of which can be found here: <http://www.childreninwales.org.uk/policy-document/wales-child-protection-procedures-2008/>
- 1.3 This Policy draws on the following law and guidance:-
- Children Act 1989
 - United Nations Convention on the Rights of the Child 1989
 - Sexual Offences Act 2003
 - Children Act 2004
 - Safeguarding Vulnerable groups Act 2006
 - Protection of Freedoms Act 2012
 - Data Protection Act 1998, General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018
 - Relevant government guidance on safeguarding Children
 - Social Services and Well-being (Wales) Act 2014
 - Working together to safeguard people volume 5: handling individual cases to protect children at risk (first published by Welsh government 11 May 2018, last updated 4th November 2019)
 - The Children and Young Person Acts 1933 and 1963 and the Children (Performances and Activities) (Wales) Regulations 2015.
 - Wales Safeguarding Procedures 2019
 - A Children's Rights Approach in Wales
- 1.4 In relation to issues affecting Children and young people arising from programme content and scheduling, Staff, producers and suppliers of programmes and/or content to S4C are expected to comply with the Ofcom Broadcasting Code and all relevant codes and guidelines issued by Ofcom from time to time as well as any policies and guidelines which may be issued by S4C.
- 1.5 This Policy has been revised by S4C in consultation with the sector which supplies content to S4C and the NSPCC.

¹ ¹ Defined in 1.7.3 below.



1.6

The Chief Executive of S4C has overall responsibility to ensure the application of this Policy and all Staff have a responsibility to follow it and to safeguard Children.

1.7 To whom does the Policy apply?

1.7.1 This Policy applies to **all** S4C Staff irrespective of whether their activities bring them into contact with or work with Children. Staff whose activities bring them into contact with Children and young people should note that this Policy applies (but is not restricted) to those people:

- producing programmes, content or interactive applications via social media or which otherwise involve Children. For the avoidance of doubt this Policy applies whenever Children are involved in an activity and not only to those programmes within the Children's genre or where Children appear in front of the camera;
- organising events involving Children;
- carrying out any other activities involving Children (including but not limited to work experience).

1.7.2 Organisations engaged by S4C to provide services which may bring them into contact with Children will often be under a contractual obligation to comply with the terms of this policy. Producers supplying children's television programmes to S4C, for example, are required to comply with the terms of this Policy under the S4C General Terms. If contractually obliged to comply, the Child Protection measures of an organisation must contain the terms of this Policy as a minimum. It is prudent for all organisations supplying services to S4C which bring them into contact with children to mirror this Policy in their own Child protection measures (whether or not a contractual obligation exists).

1.7.3 S4C has adopted the definition of a 'Child' as a person up to the age of 18 years. Therefore this policy applies to the safeguarding of all children and young people that fall within this definition.

1.8 Training

1.8.1 S4C will provide relevant safeguarding training to all Staff whose work brings them into contact with Children.

1.8.2 S4C and TAC have agreed to work together to provide relevant support, guidance and training for independent production companies on safeguarding Children.

1.8.3 Other organisations engaged by S4C must provide their own staff training to safeguard Children.

1.9 Accessing the Policy

1.9.1 This Policy can be accessed in both Welsh and English on the production section of the S4C website.

1.9.2 All Staff will be required to sign a declaration stating that they have read and understood this Policy.

1.10 Review of Policy

- 1.10.1 This Policy will be reviewed every two years (or sooner if required in light of changes in relevant laws or guidelines or following any relevant significant events). Reviews shall take into consideration the outcome of any consultation with interested parties.

2. Key Principles

2.1 S4C's key principles are underpinned by the UN Convention on the Rights of the Child:-

- S4C recognises that Children are a vulnerable group whose welfare should be safeguarded;
- All Children, regardless of age, disability, gender, racial heritage, religious belief or sexual orientation have a right to equal protection from all types of harm and abuse;
- All Children have the right to be treated with care, respect and dignity;
- Some Children are especially vulnerable because of previous experiences, their level of dependency, communication needs or other issues;
- S4C will promote and safeguard the rights and welfare of Children;
- S4C will aim to create an environment where the protection of Children's welfare is of paramount importance;
- S4C will act at all times in accordance with relevant laws;
- S4C will adopt best practice procedures and guidelines in the field of Child welfare;
- All suppliers of content to S4C and those providing outsourced services for S4C whose work bring them into contact with Children will, in the main, be contractually obliged to implement and put this Policy into practice.

3. Safeguarding and Reporting Responsibilities

3.1 Designated Persons

- 3.1.1 All organisations should have at least one Designated Person with responsibility for dealing with Child Protection issues and, where possible, one person to act in this role either in the Designated Person's absence or when unavailable. Everyone within the organisation should know who the Designated Person and deputy are and how to contact them.
- 3.1.2 At S4C the Designated Person and deputy are as noted in Appendix 2.
- 3.1.3 In the case of an independent production company, it is suggested that the producer or production manager may be the most appropriate person to act as the Designated Person.

- 3.1.4 The Designated Person should have received Child Protection training in accordance with the requirements as specified by S4C from time to time.
- 3.1.5 The role of the Designated Person is to:-
- Be the main contact for all issues regarding Children within the organisation;
 - Ensure that staff are appropriately trained;
 - Ensure that the Policy is monitored, evaluated and updated as required;
 - Ensure that any lessons learnt from incidents, wider concerns or best practice are used to improve safeguarding policy, procedure and practice;
 - Ensure that everyone within the organisation is aware of and complies with this Policy making sure that an appropriate framework is in place in order to achieve compliance;
 - Be familiar with and able to enact the Reporting Procedures (see Appendix 3) promptly when appropriate;
 - Receive, record and assess information where there are Child Protection issues or concerns regarding Children, and to clarify information where appropriate;
 - Consult with and, as appropriate, in accordance with the Reporting Procedures make a formal referral of any concerns to the police and/or the Local Authority Child Protection Team;
 - Make a clear and factual record of all actions taken following any allegation or concern, including details of referrals to statutory agencies. Records may be used in evidence in court or other proceedings. This record should be kept secure.);
 - Where the allegations relate to someone who is engaged by (or has a connection with) a production or event being produced by the organisation, the Designated Person's primary duty is to refer those suspicions to the police and/or the Local Authority Child Protection Team and work in accordance with their advice and guidance. (Note that further information about the Child Protection Process following a referral can be found in Section 2 of the Wales Safeguarding Procedures 2019. There is also a helpful illustration of the process at page 42 of the Welsh Government guidance *Working together to safeguard people volume 5: handling individual cases to protect children at risk*.);
 - Having sought advice from the relevant agencies the Designated Person should liaise with the personnel department and/or managers who are responsible for disciplinary proceedings relating to the individual. A decision should be made on the appropriate course of action to be implemented in order to protect the welfare of the Child. Such action could include suspending the individual from duties pending investigation (in accordance with the organisation's disciplinary procedures) or looking at whether any other preventative measures should be taken;
 - Discuss these issues with the authorities in advance to avoid prejudicing any criminal investigation or 'tipping off' the alleged abuser;

- Ensure the Child Protection Incident Report (see Appendix 3) is shared with S4C and appropriate organisations.

3.1.6 Where abuse is alleged it is NOT the role of the Designated Person or any other person to decide or investigate whether or not an individual has been abused nor to challenge the alleged abuser but to make the appropriate referral to the police and/or Local Authority Child Protection Team.

4. Recognising Abuse

4.1 To inform this Policy S4C has previously adopted the categories and definitions of Child abuse and maltreatment set out in the statutory guidance for Wales for safeguarding children and young people ('Safeguarding Children: Working Together under the Children Act 2004' Welsh Government 2007). These categories are Physical Abuse, Sexual Abuse, Emotional Abuse and Neglect (see below). This statutory guidance has been replaced by the statutory guidance 'Working together to safeguard people volume 5: handling individual cases to protect children at risk', which introduced a further category of 'financial abuse'. It also amended the category of 'emotional abuse' to include 'psychological abuse'. Both provisions provide helpful illustrations of examples of abuse, and so have been reproduced below.

4.2 It is important to note that abuse or neglect of a Child isn't confined to inflicting harm but also includes failing to prevent harm. In addition, the abuse of Children can extend beyond personal contact to abuse via the internet, social media and networking sites such as 'chatrooms'. It is important to note that 'Children may be abused in a family or in an institutional or community setting; by those known to them or, more rarely, by a stranger' (Welsh Government p.138, 2007).

4.3 Physical Abuse

4.3.1 'Physical abuse' may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating, or otherwise causing physical harm to a child. Physical harm may also be caused when a Parent or carer fabricates or induces illness in a child whom they are looking after. Physical abuse can lead directly to neurological damage, physical injuries, disability or – at the extreme – death. Harm may be caused to children both by the abuse itself and by the abuse taking place in a wider family or institutional context of conflict and aggression.' (Welsh Government p. 138, 2007).

4.3.2 'Physical abuse – hitting, slapping, over or misuse of medication, undue restraint, or inappropriate sanctions' (Welsh Government p.17, 2018)

4.4 Emotional Abuse

4.4.1 'Emotional abuse is the persistent emotional ill-treatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may

involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. It may involve causing children frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of ill-treatment of a child, though it may occur alone.’ (Welsh Government p.138, 2007)

4.4.2 ‘Emotional/psychological abuse – threats of harm or abandonment, coercive control, humiliation, verbal or racial abuse, isolation or withdrawal from services or supportive networks, witnessing abuse of others’. (Welsh Government p.17, 2018)

4.5 Sexual Abuse

4.5.1 ‘Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways.’ (Welsh Government p.139. 2007).

4.5.2 ‘Sexual abuse – forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening, including physical contact, including penetrative or non-penetrative acts; non-contact activities, such as involving children in looking at, or in the production of, pornographic material or watching sexual activities or encouraging children to behave in sexually inappropriate ways’; (Welsh Government p.17, 2018)

4.6 Financial abuse – this category will be less prevalent for a child but indicators could be:

- Not meeting their needs for care and support which are provided through direct payments; or
- Complaints that personal property is missing.

4.7 Neglect

4.7.1 ‘Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a Parent or carer failing to provide adequate food, shelter and clothing, failing to protect a child from physical harm or danger, or the failure to ensure access to appropriate medical care or treatment. It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.’ (Welsh Government p. 139. 2007)

4.7.2 ‘Neglect – failure to meet basic physical, emotional or psychological needs which is likely to result in impairment of health or development’ (Welsh Government p.18, 2018)

4.8 The following are some examples of possible Child protection concerns that may arise within the activities of S4C and its commissioned services:-

- Coming into contact with a Child whom staff believe is or is at risk of being

abused or neglected;

- Abuse by S4C Staff or Staff of the commissioned services;
- Abuse by the public or others involved in activities involving Children;
- Abuse by a chaperone, teacher or other accompanying adult;
- Parental abuse;
- Self-harm;
- Children and young people can also abuse each other either sexually or through what is termed as 'bullying'. Such abuse should be treated as seriously as abuse perpetrated by an adult;
- Children can be abused via use of the internet or mobile phones (ICT). Examples of this type of abuse include 'cyberbullying'; 'cyber stalking'; image manipulation; viewing pornographic, violent or inappropriate images; the Child sending or being asked to send indecent images of themselves (known as 'sexting'); contact via social media or 'chatrooms' with people who are seeking to sexually abuse Children (known as 'grooming').

4.9 Where there are concerns about a Child, but uncertainty as to whether there is a risk of abuse or actual abuse, advice and guidance from the Designated Person should **always** be sought. It is always better to err on the side of caution rather than take no action at all. If in doubt **always** first contact the Designated Person or their deputy; if unavailable advice can be sought from the NSPCC Helpline on 0808 8005000 (which can be contacted out of hours).

5. Dealing with Allegations of Abuse

- 5.1 Where there are concerns about a Child's welfare, Staff must always take those concerns seriously and report immediately to their organisation's Designated Person. All concerns, however slight, should not be ignored or minimised and the principles and process set out in Appendix 3 **must** be adhered to.
- 5.2 In the absence of a Designated Person or their deputy, information should be immediately passed on to the police and the Local Authority Child Protection Team.
- 5.3 S4C Staff should familiarise themselves with S4C's Policy For Authorising Staff to Expose Misconduct Or Inappropriate Activities (which is available as part of the S4C Handbook). Staff from independent production companies and external suppliers of services to S4C should refer to their own whistle blowing procedures.

6. Recruitment and Vetting Staff

- 6.1 Careful recruitment checks must be undertaken before allowing Staff to work with and/or come into contact with Children.
- 6.2 General Recruitment Checks
 - 6.2.1 DBS Certificates (previously known as CRB checks) are complimentary to existing recruitment practices. It is important to remember therefore that information provided through disclosures should not be regarded as a substitute for pre and post recruitment checks, which must include:-
 - Checking professional qualifications;
 - Verifying the person's identity (including photographic identification using a passport or driver's licence);
 - Ensuring that the individual undergoes a formal interview;
 - Making enquiries into an individual's previous employment history and relevant experience;
 - Taking up references;
 - Identifying any training requirements, especially where a role requires working with Children;
 - Ensuring that individuals fully understand their roles, responsibilities and duties;
 - Making appointments subject to successful completion of a trial period (e.g. three months);
 - Ensuring that the individual has read and understood this Policy (and provided written confirmation of this); and
 - Regular monitoring and appraisal.

6.3 Declarations

- 6.3.1 All Staff whose activities bring them into contact with children, young people and vulnerable groups will be required to sign the declaration contained in the Safeguarding Children and Vulnerable Adults Form attached at Appendix 6.

6.4 Disclosure and Barring Service (DBS checks) (previously CRB checks)

- 6.4.1 See the DBS Guidance attached at Appendix 4.

6.5 Referring someone to the Disclosure and Barring Service (DBS)

- 6.5.1 Employers must refer someone to the DBS if they:-

- Dismissed them because they harmed a Child or adult;
- Dismissed them or removed them from working in a regulated activity because they might have harmed a Child or adult otherwise;
- Were planning to dismiss them for either of these reasons, but the person resigned first.

- 6.5.2 An employer is breaking the law if they do not refer someone to the DBS for any of the above reasons.

7. Licensing Guidelines and Chaperones

- 7.1 When working with Children on productions in Wales The Children and Young Person Acts 1933 and 1963 and the Children (Performances and Activities) (Wales) Regulations 2015 apply and must be adhered to at all times.

- 7.1.1 Children involved in television production work may, in addition to parental consent need a performance licence from the Local Authority in the area where they live to determine if they can take part in a production and to set conditions on their participation. If the child's role in a programme or event involves 'taking part in a performance' it is likely that a licence will be required unless an exception applies. 'Performance' is not defined under the legislation and it is up to Local Authority where the child resides to determine whether the performance or activity requires a licence and if so, what conditions to attach to it.

- 7.1.2 The licencing provisions also apply to children who live in the UK but who are taken outside the UK for filming.

- 7.1.3 When is a Child Performance licence required?

- For all children from birth up to the end of their compulsory education. In Wales this is defined as the last Friday in June in the academic year in which

they turn 16 as long as they will be 16 by the end of that school year's summer holidays. This means that some 16 year olds will need a licence.

- When the performance is recorded to be broadcast or exhibited (e.g. TV, film or internet).
- When a charge is made in connection with the performance. This applies whether the performers are paid or not.
- When the performance takes place at a licenced premises or a registered club.

7.1.4 Section 37(3) of the Children and Young Persons Act 1963 provides for certain exemptions. These exemptions apply only where no payment in respect of the child taking part in the performance is made to the child or another person, other than expenses.

Exemptions

• The 4 Day Rule

If a child performs for less than 4 days within 6 months. Once a child has performed on 4 days in a 6 month period (in any performance, regardless of whether a licence was in place on any of those days or the child was taking part in performance arranged under a body of persons approval) then a licence will be required for any further performances, unless another exemption applies.

It will be necessary to check if all of the following have been taken into account when counting the days of performance:-

- School plays and performances where people have been charged for entry;
- Any performances where a Body of Persons Approval was granted for some or all of the children, including the specific child;
- Any involvement in performances by professional, amateur or community groups in a specific role or as part of the cast or chorus; as well as
- Any performances for which the child was paid or was covered by a licence.

If a child is to be absent from school this exemption cannot be relied upon and a licence will be required. Also, this exemption cannot be used for children undertaking sporting or modelling activities.

• Body of persons Approval (BOPA)

Sometimes the organiser of a performance can apply for a BOPA. A BOPA covers all children in one approval, rather than requiring individual licences for each child. The children must not be being paid. The decision whether to issue a BOPA is at the discretion of the local authority. The local authority will require assurance that the body has a clear, robust and well embedded policies for safeguarding children.

Applications for a BOPA should be made to the local authority where the performance is taking place, the local authority can grant the approval even if the children taking part

do not live within its boundaries. If granted, a BOPA removes the need to apply for an individual licence for each child, it is granted to the organisation that is responsible for the performance. The authority can impose conditions that they feel are needed to ensure the well-being of the children involved and may revoke approvals if these are not met.

If a child is to be absent from school this exemption cannot be relied upon. A licence will be required.

- **Performances organised by a School**

This does not include dance or drama schools, who must apply for licences, where necessary.

7.1.5 Licencing applications and regulations

It is a legal requirement to seek a licence when one is required and any person who causes or procures any child to do anything in contravention of the licensing legislation can be prosecuted whether a child is performing under licence or not, the same duty of care applies.

Each Local authority has their own Application for a Licence Form, Exemption Application Form and Body of Persons Approval Form.

The rules relating to educational requirements, travel, working hours and breaks must be adhered to. Good record keeping is essential.

7.1.6 Regulations and Guidance Documents

Children (performances and Activities) (Wales) Regulations 2015

<http://www.nncee.org.uk/attachments/article/215/Child%20Performance%20Regulations%20Wales%202015.pdf>

Keeping Young Performers Safe – Guidance to accompany the 2015 child performance regulations.

<http://learning.gov.wales/docs/learningwales/publications/151029-keeping-young-performers-safe-en-v2.pdf>

Keeping Young Performers Safe - A young People's Summary

<http://learning.gov.wales/docs/learningwales/publications/151102-child-performance-easy-read-en.pdf>

Keeping young performers safe: best practice

<http://learning.gov.wales/docs/learningwales/publications/170407-keeping-young-performers-safe-best-practice-en.pdf>

Keeping young performers safe :best practice –child and young person's summary

<http://learning.gov.wales/docs/learningwales/publications/170413-keeping-young-performers-safe-best-practice-child-and-young-persons-summary-en-v2.pdf>

A Children's Rights Approach is a principled and practical framework for working with children, grounded in the UN Convention on the Rights of the Child

<https://www.childcomwales.org.uk/wp-content/uploads/2017/04/The-Right-Way.pdf>

Other useful information:-

The National Network for Child Employment and Entertainment

<http://www.nncee.org.uk/>

- 7.2 A chaperone is responsible for taking care of a Child on set and ensuring their welfare. They have primary responsibility for looking after Children in their care. A chaperone should provide guidance, advice and support to the Child. They should stand up for the Child, acting in their best interests at all times. They should be comfortable in saying 'no' to the director and others in the production team when appropriate.
- 7.3 Chaperones must be engaged to supervise Children during the production process. Chaperones are licensed by the Local Authority and undergo DBS checks as part of their application process. Chaperones are required to renew their licences annually or every two years, depending on the Local Authority. Therefore, it is important to verify the identity of any chaperones who attend the production and to conduct general recruitment checks on chaperones.
- 7.4 S4C requires that a licensed chaperone, Parent or legal guardian or other adult acting in a caring or supervisory role (with the consent of the Parent e.g. a teacher) must be present even in circumstances where a Child does not require a performance licence.
- 7.5 A production company should undertake a risk assessment to ascertain the appropriate chaperone to Child ratio. The maximum number of Children that a chaperone can be responsible for is 12. However, a far lower ratio may be appropriate depending on the circumstances. Indeed the Local Authority may request a lower ratio. Factors that should be taken into consideration include the age and sex of the Children involved, the type of production, educational requirements and whether the Children are staying away from home overnight.
- 7.6 Instructions or directions issued by the chaperone must be adhered to in particular in relation to:-
 - Arranging transport to and from the set;

- The Child's meals;
- Any accommodation where the Child is staying;
- Any other conditions which the chaperone and/or the Local Authority consider necessary to ensure the Child's welfare.

8. Consents

- 8.1 The consent of the Child and a Parent (or organisation with parental responsibility) should be sought before involving Children in programmes and their consent should be properly informed. The nature of the programme, the extent of participation together with risk factors should be properly explained.
- 8.2 It is not necessary to obtain the consent of both parents, but where one parent consents and another actively does not consent to the child's participation, a referral should be made to S4C and any potential harm to the child's welfare considered.
- 8.3 If there is any doubt as to who has the necessary ability to provide consent then legal advice should be sought. If the Child in question is the subject of a care order then the local authority will have parental responsibility for the Child.
- 8.4 16 and 17 year olds who are capable of providing informed consent can sign their own consent forms where the subject matter and their contribution to the programme are not contentious.
- 8.5 Consent should be ongoing. If the nature of the programme changes then fresh consent must be obtained.
- 8.6 If Children are not active participants in programmes (i.e. appearance in a general shot of the public) then consent should normally, but not necessarily always, be sought. Consideration should be given to protecting the identity of Children in general shots if the circumstances require it.
- 8.7 If participation is to occur during school hours then the consent of the school is required.
- 8.8 Except in limited circumstances, a licence must be obtained from the local authority before Children can take part in certain types of performance. It is an offence to allow a Child to perform without a licence. A licence must be obtained in accordance with stipulations of the relevant LEA.
- 8.9 Obtaining consent to participation on camera is permissible in support of signature on a consent form. However, consent on camera should not replace the written consent form.
- 8.10 In obtaining consent it is important to adhere to Rule 1.28 of the Ofcom Broadcasting Code Guidance Notes: Protecting the under 18s. In particular the guidance stipulates that due care must be taken over the physical and emotional welfare and the dignity of people under eighteen who take part or are otherwise involved in programmes. This is irrespective of any consent given.

9. Risk Assessments

- 9.1 It is the Designated Person's responsibility to ensure that a risk assessment is carried out whenever a Child is involved in a production.
- These will include physical safety on set, health risks and work pressure on the child/children, as well as wider safeguarding and child protection issues.
- 9.2 Where a Child and Parent have consented to participate in a programme this should not be seen as a substitute for undertaking a risk assessment nor the taking of independent expert advice where appropriate.
- 9.3 Appropriate background checks on the Child's social, family, health and educational circumstances should ordinarily be undertaken when a Child is participating in a production. The risk assessment should include an assessment of risk to physical, psychological or mental health or well-being arising from the Child's appearance in programmes. Risk assessments should be ongoing and where appropriate provide for ongoing measures to minimise the risk of harm e.g. keeping in touch, monitoring after-effects of broadcast, inviting Children to view content pre-transmission and assisting with managing a Child's social media sites.
- 9.4 Specialist advice from appropriately qualified experts on the impact of participation may be required and should always be sought in extreme or unusual circumstances. In programmes involving difficult issues e.g. abuse, criminality, health issues or family problems, advice on participation from an appropriate expert should always be considered.
- 9.5 Where Children are too young to provide consent (e.g. toddlers and babies) or a Child is unable to give consent due to a disability or limited communication skills the Designated Person should consider whether it is appropriate to obtain advice from an appropriate expert in addition to parental consent.

10. Appropriate Behaviour

- 10.1 Staff must behave appropriately at all times when in the presence of Children, both on and off set. This means acting in ways that are in their best interests and ensuring that they are safeguarded at all times.
- 10.2 On Set Behaviour
- Staff should apply common sense to a situation but should always remember that the Child's welfare is of paramount consideration.

- Children should be told that they do not have to tolerate any behaviour from Staff or Children which make them feel threatened or uncomfortable.
- Staff must not use bad, inappropriate or sexually suggestive language with or in front of Children. Equally, Children who use inappropriate language or behaviour should not go unchallenged.
- Bullying (whether physical or verbal, name calling, or teasing) or intimidating behaviour in the workplace, on set, via social media or otherwise will not be tolerated in any form. S4C Staff should follow the Respect at Work Policy at all times. Other Staff, each independent production company and external supplier to S4C should refer to their own Respect at Work procedures.
- No individual should be in a position to exert undue or inappropriate influence over a Child or abuse their trust. Meetings with individual Children must take place as openly as possible and (if applicable) the chaperone or Parent (or adult with Parent's consent) should be involved at all times. If this is not possible then a colleague should be present and the reasons why a chaperone or Parent could not be present should be recorded. The record should then be passed to the Designated Person.
- Staff must act with professionalism at all times and not engage in any inappropriate physical contact or behaviour with Children (e.g. rough physical games, unnecessary touching of any form). Physical contact with Children should be avoided.
- There may be situations where physical contact is unavoidable or necessary, such as assisting a Child with special needs, for reasons of health and safety, administering first aid or comforting a distressed or injured Child. Such physical contact must take place with the consent of the Child, under supervision, in the open and the purpose of the contact should be absolutely clear and recorded. The record should then be passed to the Designated Person.
- Staff should recognise that those working for or on behalf of S4C are perceived by Children as being in a position of authority as trusted representatives of S4C. Therefore sexual relationships with a Child over the age of legal consent but below the age of 18 will be regarded as a serious breach of trust and will be considered a breach of the Sexual Offences Act 2003 and reported to the authorities as such.
- Situations where an individual Child and an adult are totally unobserved should be avoided. Where such a situation arises and is 'reasonably' unavoidable a record must be made by the chaperone or an appropriate person and passed to the Designated Person.

10.3 Off set Activity

10.3.1 Overnight stays

- 10.3.1.1 Any Children required to stay overnight must be accompanied by a LEA Chaperone, a Parent or a responsible adult with the consent of the Parent.

10.3.2 Transportation

- 10.3.2.1 Children should not be taken alone on journeys, however short. Transportation arrangements should be made as far in advance as possible and Children should be accompanied by a Parent, chaperone or teacher or other adult acting in a caring or supervisory role with the consent of the Parent. If an exceptional situation arises where a Child over the age of 16 (who does not require an LEA licence) cannot be accompanied by such a person, a Staff member with appropriate DBS disclosure must accompany the Child or the Child must travel in a taxi with a driver with appropriate DBS disclosure, with the specific prior consent of the Parent.
- 10.3.3 Staff should not arrange to meet with or have unnecessary contact with Children outside the production or organised activity without good reason, such contact should be recorded and passed to the Designated Person.

11. On-Line Activity and Social Media

- 11.1 Staff are forbidden to access, download and/or distribute (whether to Staff or to external e-mail contacts) materials that could be considered inappropriate e.g. pornographic, violent, obscene, indecent or Child abuse material. S4C operate a zero-tolerance policy on any form of abuse of children including the inappropriate use of any computers, mobile phones, video/digital cameras or other electronic devices to commit online grooming, to possess distribute or create child abuse images. Disciplinary action which is proportionate and justifiable will be taken in instances of breach.
- 11.2 Where it is thought that an inappropriate attachment has been received, it should not be opened or forwarded but should be reported to the Designated Person.
- 11.3 Online safety should be included as part of the risk assessment. Child contributors may be the victims of online harassment or bullying as a result of participation and this should be assessed and mitigated where possible. In certain circumstances it may, with the Child's and parent's consent, be appropriate for a Child participator's social media accounts to be temporarily suspended.
- 11.4 The majority of social networks have age restrictions, most require that a Child is over the age of 13 to hold an account. Therefore such sites should not be used to target those who are under 13 or the relevant sign up age.
- 11.5 Staff should not contact Child programme participants directly by e-mail about non-programme related matters or 'friend' or 'follow' them on social media sites. E-mail correspondence should in most cases be with the parent.
- 11.6 Staff who are contacted directly by Children other than through agreed formal work related communication (e.g. social network contact) or are sent inappropriate messages or images, should not respond and should immediately seek advice and guidance from the Designated Person.
- 11.7 Where an S4C Staff member, actor or brand character is thought to be impersonated online, which may raise a Child protection concern, this should be reported immediately to the Designated Person.
- 11.8 Where the use of any form of on-line moderation or publishing pictures or footage in on-line spaces targeted at Children is intended then referral should be made to the

appropriate S4C Commissioner.

- 11.9 Any concern regarding issues of Child protection in relation to on-line or social media activity should be reported to the Designated Person.

12. Competitions

- 12.1 When running a competition for Children (or a competition which is open for Children to enter) the prize must be appropriate.
- 12.2 Children under the age of 13 must have the verifiable consent² of a Parent to receive a competition prize and have their name mentioned as a prize-winner in a programme, on a website or elsewhere. There is no need to verify that consent to enter the competition has been sought.

² What constitutes 'verifiable consent' will depend on the circumstances. In most cases a written and signed consent form, an email received from an email address which is different to that of the Child or a telephone conversation with the parent or responsible adult will suffice.

13. First Aid

- 13.1 Consideration of the provision of first aid should always form part of the risk assessment when a Child is involved in a production. A nominated first aider must always be appointed.
- 13.2 If specific issues are identified at the risk assessment stage e.g. a child on set suffers from a known medical condition, appropriate medical provision should be arranged to deal with issues that might arise as a result of that medical condition. This provision may include employing a healthcare professional such as a registered paramedic or registered nurse or ensuring that the nominated first aider is adequately trained to deal with the Child's condition.
- 13.3 Where paramedics and nurses are engaged, qualifications should be checked and a current DBS certificate should be supplied by the healthcare provider when employed to work with Children.
- 13.4 Nominated first aiders should only receive training from a competent training provider and competence should be maintained by regular attendance on refresher courses as specified by the nominated training provider.
- 13.5 Whenever possible a second adult should be present while a Child is receiving first aid treatment.

14. For Children and Parents: What you need to know

14.1 Information Sheet for Children and Parents

- 14.1.1 It is important that Children and their Parents are given appropriate information about participation in a production and to whom they can address any concerns. An information sheet should be provided before any consent to filming is obtained.
- 14.1.2 With the aim of working in partnership with families and of ensuring the appropriate delivery of information to Children and their Parents about the nature and likely consequences of participation in any programme (so that the consent of Children and their Parents is properly informed), Children and Parents should be given an information sheet which sets out:-
 - Expectations of their behaviour and how they should be treated;
 - The name of a Designated Person they can approach in confidence and to whom they should address any concerns regarding Child protection issues;
 - Details of any licencing requirements, supervision arrangements and the filming schedule;
 - The process by which content is recorded, edited and broadcast and how the Child's participation relates to this process;
 - Any likely positive and negative consequences of participation;
 - The number of the NSPCC helpline and Childline, the Local Authority Child Protection Team and local police station; and

- The name of someone to whom a complaint can be made and/or to whom any concerns about the Designated Person should be directed.

14.1.3 The information should be worded, as far as possible, in Child-friendly terms which are appropriate to the Child's age, understanding, maturity, first language and circumstances.

APPENDIX 1

DEFINITIONS

For the purposes of this Policy, the following terms apply:-

"Child(ren)": children and young people under the age of 18;

"DBS": Disclosure and Barring Service;

"Designated Person": the designated person to be nominated by and for S4C and by each organisation supplying services to S4C whose responsibilities regarding Child protection are set out in this Policy;

"DPA 1998": the Data Protection Act 1998;

"DPA 2018": the Data Protection Act 2018;

"Ofcom under 18s Guidance": Ofcom's Guidance Notes Protecting the Under 18s (Issue Five: 16 December 2009) and/or any revised or replacement guidance issued by Ofcom in relation to the protection of Children from time to time;

"Parent": an individual with parental responsibility or a legal guardian;

"Staff": all employees, freelance staff, agents, consultants, volunteers and others working on behalf of or providing services to S4C;

"TAC": Teledwyr Annibynnol Cymru Cyf (company number 02573379), the trade association formed to represent the interests of independents producing mainly for broadcasters in Wales.

APPENDIX 2

S4C DESIGNATED PERSON

The Designated Person for S4C is the Chief Operating Officer, Elin Morris. The nominated Deputy Designated Person is the Head of Legal and Business, Iestyn Morris.

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APPENDIX 3

DEALING WITH ALLEGATIONS OF ABUSE/ISSUES OF CONCERN

1. Responding to Concerns about Abuse

1.1 When responding to concerns about abuse the following principles should be uppermost in all decisions and actions:

- The primary consideration must be the safety and welfare of the Child;
- Staff should not speculate about whether there is abuse or not;
- Even where there is uncertainty, **all** concerns must be reported to the Designated Person and in their absence to the police and/or the Local Authority Child Protection Team;
- If the situation involves a threat to 'life and limb' the emergency services should be contacted immediately;
- That abuse also includes the failure to act to prevent harm;
- That Children are often abused by someone they trust and more rarely, by a stranger. Abuse can occur in all types of relationships and settings;
- Children may also be abused by another Child or young person and these incidents should be treated with the same seriousness and acted upon in the same manner as where the alleged abuser is an adult;
- That it is the **role of the police and Child Protection Agencies** to investigate concerns, not a member of Staff. Therefore under **no** circumstances should an allegation be investigated or an alleged abuser challenged by Staff members. Refer to the Wales Safeguarding Procedures <https://safeguarding.wales/> and Welsh Government guidance *Working together to safeguard people volume 5: handling individual cases to protect children at risk* (please follow this link) <https://gov.wales/sites/default/files/publications/2019-05/working-together-to-safeguard-people-volume-5-handling-individual-cases-to-protect-children-at-risk.pdf> for further information about the process followed by the Police and Child Protection Agencies following a referral to them.

1.2 In some situations the activity with Children may involve a 'site' that operates its own policy and procedures such as a school. In this situation it is best practice to liaise with the 'site' Designated Person and agree who will lead should a concern arise. In the event of a concern arising all the Designated Persons involved must be informed. It is important to note that even where the decision is for the 'site' Designated Person to lead, this Policy must still be followed in regard to recording and reporting.

1.3 Where there are concerns about a Child that fall outside this Policy or about which there is uncertainty as to what action to take **always** seek advice and guidance from the Designated Person or their deputy or the NSPCC Helpline 0808 8005000 (which can be called out of hours).

1.4 The person reporting the Child protection concern must:-

- do so as soon as possible
- agree any action with the Designated Person
- complete a Child Protection Incident Report (see below)

Remember if a Child makes a disclosure it is important not to panic and that by staying calm you are helping them through a difficult time. The Child is doing something that is significant and distressing and they are in need of reassurance and support.

- 1.5 The following are important **do's** and **don'ts** when responding to a Child making a disclosure of abuse:

DO reassure the Child that they are right to tell you	Don't act with disbelief, disgust or in any way that conveys to the Child that you don't want to hear them
Do tell the Child that you are taking their concerns seriously	Don't speculate
Do tell the Child that you will need to tell people who can help them and you will give the information to those people only	Don't promise total confidentiality
Do listen and record what the Child has told you without interruption question or prompt	Don't ask the Child any questions about the disclosure
Do tell the Child what will happen next	Don't seek to investigate the allegation or confront the alleged abuser
Do record what you have been told as soon as possible	
Do record only what the Child discloses (using a verbatim record as much as possible) and nothing more	
Do sign your record of the disclosure (Don't ask the Child to sign) and record the time, date and a note of who was present	

- 1.6 It is important to listen sympathetically to the Child without interruption and not to make suggestions, interpret what the Child is saying, speculate, make leading statements or prompt the Child to say more than they freely wish to. The task when a Child is making a disclosure is to support them by being reassuring and only recording what they are saying using their own words as much as possible.
- 1.7 It is important to tell the Child that they have done the right thing in telling you, using language that is appropriate to their age and level of understanding. Do not promise to keep what you have been told a secret but that you have to pass on the information on a 'need to know basis' in order to protect them. Explain to the Child what will happen next as far as you know. Do not promise what you cannot know or fulfil.
- 1.8 If the Child requires immediate medical attention call for assistance. The doctors / paramedics should be informed of the concerns and that the incident is being reported as a Child protection issue.
- 1.9 Notify the Designated Person immediately. The Designated Person must then refer the

concerns to the police and/or Local Authority Child Protection Team;

- 1.10 If the disclosure is regarding the Child's Parent or family member then it will be necessary to obtain immediate advice from the police and/or Local Authority Child Protection Team about protecting and keeping the Child safe.
- 1.11 The member of Staff to whom the concerns / allegations have been made should then complete a written Child Protection Incident Report (CPI Report) (see below) within one working day;
- 1.12 It is vital that the individual staff member does not pass judgement on or challenge the alleged abuser. Staff members should not attempt to investigate the allegations themselves under ANY circumstances.
- 1.13 Where there are concerns about a Child that fall outside this Policy or about which there is uncertainty as to what action to take **always** seek advice and guidance from the Designated Person or their deputy or the NSPCC Helpline 0808 8005000 (which can be contacted out of hours).

1.14 The Child Protection Incident Report (CPI Report)

- 1.14.1 Information relating to each incident must be passed on to the Designated Person at S4C and may need to be passed on to the police and Local Authority Child Protection Team. The Designated Person should ensure that details of the abuse, allegations or concerns are recorded in writing as early as possible. The report should use clear, straightforward language and record exactly what the Child has said and should contain the following details where known:-
 - The Child's name, address, date of birth, race/ethnic origin, first language and any disability they may have;
 - Identification details of the alleged abuser;
 - Full details of the allegations or concerns, including times, locations and dates of any specific incidents;
 - Whether the concerns in the report have been made by the Child, a third party, or the person who compiled the report;
 - A description of any injuries that is either disclosed or visible together with remarks on the behaviour or emotional state of the Child (if any). Do not examine the child for injuries unless emergency medical intervention is required;
 - The name, position and contact details of the member of Staff making the CPI Report.
- 1.14.2 The report should be signed, dated and sent to the Designated Person within one working day of disclosure. In order to preserve confidentiality, the member of Staff should first consult the Designated Person as to how the report should be delivered (by hand, via confidential e-mail etc.) All records should be kept securely by the Designated Person.
- 1.14.3 When dealing with allegations or concerns of abuse it is essential that this Policy is utilised within the broader context of S4C's whistle blowing guidelines. Each independent production company and external suppliers of services to S4C should consult their own whistle blowing procedures. Staff should contact the Designated



Person (and independent production companies and/or external suppliers of S4C should contact the Designated Person within S4C) if they become aware of anything that makes them feel either uncomfortable or about which they have concerns.

1.14.4 Please find below checklists for Designated Persons and Staff respectively.

CHECKLIST FOR DESIGNATED PERSONS IN DEALING WITH ALLEGATIONS OF ABUSE AND OTHER ISSUES OF CONCERN

A concern is brought to your attention concerning a Child's welfare

Contact the appropriate agencies:-

- Local police force
- Local Authority Child Protection Team
- NSPCC (Helpline): 0808 800 5000

All non-S4C Designated Persons should keep the S4C Designated Persons informed:

Elin Morris or Iestyn Morris 0370 600 4141

Keep a detailed record of all action taken and details of the referral(s) in a Child Protection Incident Report

Send a copy of the Child Protection Incident Report to the S4C Designated Person

The relevant agencies to provide feedback of the outcome of referral

CHECKLIST FOR MEMBERS OF STAFF IN DEALING WITH ALLEGATIONS OF ABUSE

A concern is brought to your attention about a Child's welfare

If a Child requires medical attention call for immediate medical assistance

The Staff member should complete a written Child Protection Incident Report ASAP and send a copy to the Designated Person

1.14.5 Internal disciplinary proceedings

Any disciplinary proceedings that may be necessary should be conducted as swiftly as possible and without automatically awaiting the outcome of parallel investigations by the police or any other organisation. It should be borne in mind that:-

- In deciding whether or not to suspend a member of Staff, the welfare of the Child(ren) is the paramount consideration. The first consideration should always be the best interests of the Child who may be at risk;
- It is not the role of the police or other relevant statutory agencies to determine internal disciplinary issues, although it will be important and necessary to maintain a clear liaison with the investigating agencies. Discuss these issues with the authorities in advance to avoid prejudicing any criminal investigation or 'tipping off' the alleged abuser;
- Internal disciplinary issues may well involve wider issues than whether a crime has been committed;
- Where potential witnesses to criminal proceedings have made statements to the police, these statements should be made available to the Designated Person and S4C's Designated Person organisation if the individuals agree;
- Any reference to Staff discipline and conduct should be viewed within the context of S4C's own disciplinary procedures and in respect of each independent production company and external suppliers of services to S4C of their own disciplinary procedures.

APPENDIX 4

DBS GUIDANCE NOTE FOR INDEPENDENT PRODUCTION COMPANIES SUPPLYING S4C

1. Introduction
2. Child Protection and Background Checks
3. Changes from previous arrangements
4. Regulated Activity in relation to Children
 - How do these changes relate to the film and television industry?
 - Who should be checked?
5. Regulated Activity in relation to Adults (i.e. a person aged 18 or over)
6. Update Service
7. How to apply for a DBS check
8. Referral to the Disclosure & Barring Service (DBS)

1. Introduction

There is legislation in force which outlines the basis on which you, as employers, are required and entitled by law to check the criminal background of certain individuals whom you employ, contract or engage in order to establish whether they are suitable to be working with children and vulnerable adults.

Legislation introduced by the Protection of Freedoms Act 2012, which amends the Safeguarding Vulnerable Groups Act 2006 specifies that if you engage an individual to undertake certain Regulated Activity as specified in this note, you are required to undertake an enhanced criminal record check (with barred list information if appropriate) prior to their engagement since the employment of such a person in relation to a Regulated Activity is an offence.³

Although it is clear that the legislation has been drafted with the health, education, care, social services, voluntary etc. sectors in mind, it is also applicable to the film and television sectors although its interpretation within this sector is not clear cut. The film and television sectors are required to have proper children and vulnerable groups protection measures in place and undertaking an appropriate background check forms one of those protection measures.

As an employer you must also ensure compliance with the Rehabilitation of Offenders Act 1974 and the Human Rights Legislation.

This note outlines current thinking on these issues.

2. Child Protection and Background Checks

When working with children, be it on set or anywhere else, it is important to take steps to safeguard children. It is worth remembering that background checks are just part of the armoury in protecting children. When employing or engaging individuals to work with children it is important to take steps to prevent those who are unsuitable from being in contact with children. It may be appropriate to take up references and check training records etc. Certainly, it will be necessary to ensure that you have a criminal record check for those working with the children where such a check is required and/or legally permitted.

3. Changes from previous arrangements

Prior to 2012 employers could check the criminal records of prospective employees by undertaking a Criminal Records Bureau check (CRB). During 2012 this regime changed.

The CRB and the Independent Safeguarding Authority (ISA) merged into one department called the Disclosure and Barring Service (DBS). The DBS now carries out the work previously undertaken by the CRB and the Independent Safeguarding Authority.

³ This is section 34ZA of the Safeguarding and Vulnerable Groups Act 2006, which was introduced by s. 73 of the Protection of Freedoms Act 2012. The section has not yet come into force and no date has as yet been given for it to come into force. However, in light of the fact that it is a criminal offence under section 9 of the 2006 Act for a regulated activity provider to permit an individual who is barred to engage in a regulated activity, wherever a regulated activity is concerned, it is advisable for the regulated activity provider to obtain an enhanced criminal record check.

We will no longer therefore be referring to 'CRB checks', we will now be referring to 'DBS Checks'.

4. Regulated Activity in relation to Children

The Protection of Freedoms Act 2012 provides for the inclusion of a new definition of Regulated Activity (work that a 'barred person' must not do) in the 2006 Protection of Vulnerable Groups Act. In relation to children 'Regulated Activity' occurs where an individual frequently or intensively:-

- (a) Undertakes unsupervised activities with children: teaching, training, instructing, caring for or supervising children, or providing advice/guidance on well-being or driving a vehicle only for children.
- (b) Works for a limited range of establishments (known as 'specified places'), with opportunity for contact, e.g. schools, children's homes, childcare premises (but not work by supervised volunteers).
- (c) Provides relevant personal care, e.g. washing or dressing; or health care by or supervised by a professional, even if done once.
- (d) Provides registered child-minding and foster carers.
- (e) Moderates a public electronic interactive communication service likely to be used wholly or mainly by children, carried out by the same person frequently or intensively.

It is worth remembering that family arrangements and non-commercial arrangements are excluded.

'Frequently' or intensively' means an activity carried out by the same person:-

- once a week or more often; or
- on 2 or more days in a 30 day period; or
- overnight between 2am and 6am and which gives the person the opportunity for "face to face contact" with children.

Regulated Activity no longer includes any form of teaching, training, and instruction on a regular basis that is subject to the day-to-day supervision of another person. However, a worker or volunteer who teaches, trains or instructs unsupervised on a regular basis will be performing Regulated Activities.

The changes to the definition of Regulated Activity means that the vetting scheme will affect fewer people whilst continuing to provide for a robust system for vetting staff and barring people who are unsuitable to work with children in the UK. You must not engage anyone to undertake a Regulated Activity if that person has been barred by the DBS. Indeed, an organisation which knowingly allows a barred person to work in Regulated Activity will be breaking the law. There is moreover, a duty in the legislation on a Regulated Activity provider to check whether a person is barred from working with children when considering whether to employ someone to carry out such a Regulated Activity (however, this duty has not as yet been brought into force). Equally, however, it is not permissible to apply for an enhanced

criminal record certificate with barring unless the individual is to be employed in a Regulated Activity as prescribed, which includes working with children or vulnerable adults.

How do the changes relate to the film and television industry?

When engaging children to participate in film or television programmes it should always be on the premise, (regardless of whether the child is required to be licensed by the local authority to undertake the engagement), that a parent (or person with parental responsibility) or a person who has the consent of the parent be present or that a chaperone is engaged to care for the well-being of the child. The chaperone is therefore engaged to undertake 'Regulated Activity'. By extension, those persons responsible for the supervision of the chaperone are also deemed to be engaged in Regulated Activity. However, where a parent or guardian is undertaking chaperone duties solely in respect of their own children then a DBS check will not be required.

Certain children's productions may incorporate interaction with children through websites, social media sites such as Facebook and Twitter, chatrooms or message boards which are moderated by a member of the production team. The moderator's role will involve the receiving of messages, photographs and video clips from children and the moderator will editorially decide on which aspects of the content is published on the electronic interactive communication service. The moderator may also respond directly to the child or may supervise the responses of children's presenters or other participants on the service. The moderator's role is therefore Regulated Activity.

Note that simply managing a database of children's data is not itself deemed to be regulated activity.

Who should be checked?

Those engaged in Regulated Activity as outlined in Section 4 above. We suggest that those individuals in the following roles on a television production set may, depending on the circumstances, be carrying out Regulated Activity:-

1. Chaperones;
2. Those engaged in supervising chaperones;
3. Costume fitters, make-up artists and voice coaches;
4. Directors;
5. Moderators of electronic interactive communication services;
6. Those providing a service as a registered professional e.g. psychiatrist or solicitor;
and
7. Drivers driving children to and from locations.

The list is unlikely to extend to floor managers and camera men unless a clear and robust case can be made following a risk assessment that the work they undertake falls under the definition of Regulated Activity. It would not normally be the case that these activities would be Regulated Activity as the child should ordinarily have a parent, chaperone or other adult with the consent of the parent present to care and supervise the child. Umbrella bodies are unable to process applications for checks for such persons who are not engaged in Regulated Activity.

5. Regulated Activity in relation to Adults (i.e. a person aged 18 or over)

There are six categories of people who will fall within the new definition of Regulated Activity in relation to adults (those who provide day to day management or supervision of those people will also be undertaking Regulated Activity). A broad outline of these categories is set out below.

The six categories within the new definitions of 'Regulated Activities' for adults:-

- 1) Providing health care, i.e. psychotherapy and counselling, (excludes for example a nominated / volunteer first aider in a company);
- 2) Providing Personal Care i.e. anyone who provides care or physical assistance because of the adult's age, illness or disability is in a regulated activity (excludes for example hairdressers assisting in this instance);
- 3) Providing Social Work;
- 4) Assistance with general household matters;
- 5) Assistance in the conduct of a person's own affairs i.e. power of attorney under the Mental Capacity Act; and
- 6) Conveying i.e. drivers who assist in transport because of age, illness or disability (except in instances as a result of personal relationship).

It is unlikely that production companies in the course of producing television programmes will be undertaking any of the activities above, other than, possibly point 6 - arranging for an adult, who, due to age, illness or disability requires assistance to be driven to a certain place to participate in productions. In such circumstances it would be appropriate to undertake a DBS check on the person undertaking such a Regulated Activity if that person was unsupervised.

6. Update Service

In June 2013 a new update service was introduced which allows individuals, on payment of an annual fee of £13, to subscribe to the Update Service which enables a worker to take their DBS certificate to any new employer. Such workers can grant consent to their new employer to access the DBS online service (free of charge) to verify the information on the DBS certificate is up to date, and therefore avoid the new employer having to undertake a new DBS check. This clearly saves time and cost by avoiding the need for repeat applications.

7. How to apply for a DBS check

All applications for a DBS check are required to be undertaken by licensed umbrella bodies. There are three levels of check – a Standard check, an Enhanced check, and Enhanced with barred list check. Where the work involves the individual working in a 'Regulated Activity' it will require an Enhanced check to be undertaken. To be eligible to request a check of the children's or adults' barred lists, in addition the position must be eligible for an enhanced level DBS certificate as above and be specifically listed in the Police Act 1997 (Criminal Records) regulations as able to check the appropriate barred list(s).

DBS checks should only be carried out on persons the organisation intends to engage to undertake Regulated Activity. You should take legal advice as to the appropriate steps to be taken if the results of the check disclose anything which would deem the person to be unsuitable to undertake the role.

Some umbrella bodies offer an online application process (otherwise an application form may be requested) which will need to be completed by the employer and prospective employee and the result of the check will be provided to the employer. This information is highly confidential and must be stored in a secure place.

As the DBS certificate is only valid at the time of application employers should consider periodically updating the check if an employee is consistently undertaking Regulated Activity. A sensible approach may be to undertake updates at the start of every production and thereafter at six monthly intervals. It is possible to apply for an updating service from the DBS for an annual charge.

Basic Check

An individual can apply for a basic certificate from the DBS. This may be useful where an individual is not carrying out Regulated Activity but some sort of check would be useful to determine that individual's suitability to work with children or vulnerable adults.

Individuals (aged 16 or over at the time they make the application) can apply for a basic DBS certificate.

The basic DBS certificate contains details of unspent criminal convictions, conditional and unconditional cautions, or a statement that the individual has no such convictions or cautions.

The gov.uk website notes that it is possible for someone to apply for a basic DBS certificate from Disclosure Scotland since this will provide details of convictions anywhere in the UK.

Child Sex Offender Scheme

It may also be possible to use the Child Sex Offender Scheme that is run by the local police in certain circumstances to seek information in relation to an individual where a regulated activity is not involved but where it is felt there is potential risk involved.

8. Referral to the Disclosure & Barring Service (DBS)

If you dismiss or remove someone from Regulated Activity (or you would have done had they not already left) because they harmed or posed a risk of harm to vulnerable groups including children, you are legally required to forward information about that person to the DBS. It is a criminal offence not to do so. If you believe that the person has committed a criminal offence, it is also advised that you to pass the information to the police.

Therefore, employers must refer someone to the DBS if they:-

- dismissed them because they harmed a child or adult;



- dismissed them or removed them from working in regulated activity because they might have harmed a child or adult otherwise;
- were planning to dismiss them for either of these reasons, but the person resigned first.

An employer is breaking the law if they do not refer someone to DBS for any of the above reasons.

Further information may be found at:

<https://www.gov.uk/disclosure-barring-service-check/overview>

APPENDIX 5

DATA PROTECTION

UK data protection law changed on 25 May 2018 when the General data protection Regulation (EU) 2016/679) (GDPR) came into force. The main provisions of the UK Data Protection Act 2018 (DPA 2018) also commenced on 25 May 2018. The DPA 2018 repeals and replaces the Data Protection Act 1998

The general provisions of the GDPR will apply when processing personal data relating to a child, in the same way they apply to the processing of personal data relating to an adult. The GDPR also introduced specific legal responsibilities for those processing children's personal data

Children have the same rights as adults over their personal data which they can exercise as long as they are competent to do so. Where a child is not considered to be competent, an adult with parental responsibility may usually exercise the child's data protection rights on their behalf.

Children's Personal Data is afforded the same protection granted to adults under the Act. In order to further safeguard the interests of children, S4C will require parental consent prior to the collection and use of children's Personal Data. When appropriate, the consent of the child will also be sought. In the UK, the legal age that a child can consent to the processing of its personal data is 13 years old. For a child under 13, the person holding parental responsibility for that child must give their consent

Consent can be given in various different forms (from a simple online tick box completed by the child, to the signing of a parental consent form through to a face to face meeting with the child and parent). The type of consent to be sought will depend on the situation and the age of the child but explicit and verifiable parental consent in an appropriate form should always be sought for the collection and use of Personal Data from children under the age of 13. A record of that consent should be retained.

It is unlikely that parental consent will be required for young people between the age of 16 and 18.

A child does not lose their data subject rights just because consent has been given by the person holding parental responsibility. When S4C deal with data subject requests from children, each request will be on a case by case basis, taking into account whether their level of maturity and understanding sufficiently enables them to appreciate their rights under the GDPR and interpret information received in response.

Childrens' Personal Data (like all Personal Data) should only be retained for as long as is necessary in accordance with the provisions of the DPA 2018 and in accordance with S4C's Retention Policy. Appropriate procedures should be put in place to ensure any Personal Data collected from children is disposed of at the appropriate time and in a safe and secure manner.

Children's Personal Data should always be stored in the most secure way possible. The data must be password protected and only those with a genuine business need should be allowed access to the data. If processing children's Sensitive Personal Data, further security measures may be required.

Children have the same right to have their personal data erased as adults. It should generally be as easy for a child to exercise their right to erasure as it was for them to provide their personal data in the first place.

Staff dealing with children's Personal Data should be appropriately DBS checked. (See



Appendix 4 – DBS Guidance for further details).

Privacy notices must be written and displayed as appropriate for the relevant age group, for example using diagrams, cartoons or videos that will be attractive to children.



S4C

Safeguarding Children and Vulnerable Adults Self Declaration Form

S4C and **[insert name of company]** (the "Company") is committed to safeguarding the welfare of Children and Vulnerable Adults.

You will be required to complete this form if you undertake a role that fits either criteria A or B below:-

Criteria A

Your role will involve working directly with Children and/or Vulnerable Adults in a situation where a standard or enhanced DBS certificate can legally be requested i.e. where the position is one that is 'exempt' from the Rehabilitation of Offenders Act 1974 as listed in the Rehabilitation of Offenders Act 1974 (Exemptions Order) 1975 as amended. This includes those undertaking Regulated Activity as defined in the Safeguarding Vulnerable Groups Act 2006 (SVGA) as amended by the Protection of Freedoms Act 2012 (PFA).

You are required to disclose all convictions (spent and unspent), cautions, reprimands and final warnings and any other relevant non-conviction information which are not eligible for filtering.

Criteria B

Your role does not usually involve working with Children or Vulnerable Adults but you may on occasion come into supervised contact with Children or Vulnerable Adults. You do not need to disclose spent convictions in these circumstances.



Self Declaration

I declare that:-

1. I do not have convictions in the UK or in any other country.
(You need to disclose all convictions including spent convictions if criteria A applies¹)
2. I have never been subject to any disciplinary action or sanction in relation to Children or Vulnerable Adults. My name is not on the Sex Offenders Register and I am not known to the Police or any Local Authority Social Services Department, or any employer, as being an actual or potential risk to children or Vulnerable Adults.
3. I confirm that I am not barred from regulated work with Children or Vulnerable Adults pursuant to the Safeguarding Vulnerable Groups Act 2016.
4. If in the future any of points 1-3 apply then I will immediately inform the Company.

S4C and the Company reserves the right to verify the information you have given on this form. By signing this form you consent to S4C and the Company processing and keeping the data for the purposes of Child and Vulnerable Adult protection and the control of health and safety risk in accordance with Data Protection Laws and Regulations.

I confirm that I am committed to the aims and objectives of S4C and Company in protecting and safeguarding Children, young people and Vulnerable Adult from abuse. I understand that to knowingly give false information or to omit information will be considered a breach of trust and could result in my dismissal at any time in the future. I declare that the information I have given on this form is correct.

Signed.....

Dated.....

If you are unable to make this declaration, you must inform the Company and you may not, depending on the circumstances be able to work on any programme which entails working with, or being in contact with Children or Vulnerable Adults.

Definitions

"Child(ren)" a person who is under 18 years of age Section 60 (1), SVGA 2006
(Section 60(1), SVGA 2006 as amended by 65(2), PFA 2012)

"Vulnerable Adult" a person who is

- 18 Years or over; and
- the subject of regulated activity as defined by 7 (1) of Schedule 4 of the SVGA 2006

¹If criteria B applies the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (as amended in 2013) provides that certain spent convictions and cautions are 'protected' and are not subject to disclosure to employers, and cannot be taken into account. Guidance and criteria on the filtering of these cautions and convictions can be found on the Government Disclosure and Barring Service website).