

UK and Welsh legislation, policies and reports that inform safeguarding policies and practices in higher education

The following legislation, policies and reports should inform universities' safeguarding policies and practices as they relate to staff and students. The information provided below is indicative rather than exhaustive. Institutions should assure themselves that their safeguarding policies and procedures are fit for purpose.

United Kingdom legislation

[Health and safety at work Act \(1974\)](#)

The Health and Safety at Work Act (1974) is legislation covering occupational health and safety in Great Britain. It sets out the general duties which:

- employers have towards employees and members of the public;
- employees have to themselves and to each other;
- certain self-employed have towards themselves and others.

Further information

- [Health and safety at work: criminal and civil law](#)

[The United Nations convention on the Rights of the Child Act \(1992\)](#)

The United Nations Convention on the Rights of the Child (UNCRC) underpins many pieces of legislation that relate to the roles of individuals who work with children, such as the Children Act (2004), and it underpins the Equality Act (2010). The UNCRC highlights the importance of treating every child as a unique person, which helps to ensure that all of their needs are met in a way that is specific to them, enabling them to have a high quality of life.

[The Human Rights Act \(1998\)](#)

Human rights within the United Kingdom are protected by the Human Rights Act 1998. If an individual believes that their human rights have been breached, the individual can take action against this in a court of law. Examples of rights that are contained within the Act are:

- the right to freedom from torture and inhumane or degrading treatment or punishment;
- the right to liberty and security;
- the right to freedom of thought, conscience and religion;

- the right to freedom of expression;
- the right of access to an education.

Although usually associated with adults, this Act provides equal rights and protection to children.

Crime and Disorder Act (1998) and Criminal Justice Act (2003)

The Crime and Disorder Act 1998 (sections 28-32) and the Criminal Justice Act 2003 (sections 145 and 146) identify and monitor the following strands of hate crime:

- racially and religiously aggravated;
- homophobic, biphobic and transphobic; and
- disability hate crime.

The police and the Crown Prosecution Service (CPS) has agreed the following definition for identifying and flagging hate crimes:

"Any criminal offence which is perceived by the victim or any other person, to be motivated by hostility or prejudice, based on a person's disability or perceived disability; race or perceived race; or religion or perceived religion; or sexual orientation or perceived sexual orientation or transgender identity or perceived transgender identity."

There is no legal definition of hostility so the CPS uses the everyday understanding of the word which includes ill-will, spite, contempt, prejudice, unfriendliness, antagonism, resentment and dislike.¹

Safeguarding Vulnerable Groups Act 2006 (amended by the Protection of Freedoms Act 2012)

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular by the Protection of Freedoms Act 2012).

The new definition of regulated activity relating to children comprises of:

- i. unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;
- ii. work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers;

Work under (i) or (ii) is regulated activity only if done regularly. Regular means carried out by the **same person** frequently (**once a week or more often**), or on **3 or more days in a 30-day period** (or in some cases, overnight).

¹ www.cps.gov.uk/hate-crime

The government has provided statutory guidance about supervision of activity, which would be regulated activity if it were unsupervised.

- iii. relevant personal care, for example washing or dressing; or health care by or supervised by a professional;
- iv. registered child-minding; and foster-carers.

Equality Act (2010)

The Equality Act was introduced in April 2010 and specific public sector equality duties (Wales) were introduced in April 2011. The Wales specific duties require universities to publish a Strategic Equality Plan, equality objectives and accompanying action plan for the period to evidence how they would meet general and specific equality duties.

Counter-Terrorism and Security Act (2015)

Under the Counter-Terrorism and Security Act 2015 'relevant higher education bodies' (RHEBs) are required, amongst others, to have due regard to the need to prevent people from being drawn into terrorism is known as the 'Prevent duty'.

The HEFCW Prevent statutory guidance sets out our expectations on how providers will demonstrate due regard to the duty. The guidance is based on the principles of safeguarding people in the HE system from being drawn into terrorism and on protecting the welfare and well-being of all students and staff at risk of terrorism-related radicalisation. Radicalisation is a dynamic process and everyone is ultimately at risk of being radicalised. The guidance emphasises a proportionate approach which is guided by the risks identified by and mitigated for by individual HE providers under our monitoring authority. See HEFCW circular [W19/25HE 'Prevent duty: Framework for monitoring higher education in Wales - 2019/20 onwards'](#) for more information.

Modern Slavery Act (2015)

The Modern Slavery Act provides the legislative framework to law enforcement agencies and provides them with the tools to tackle modern slavery and enhance support and protection for victims.

The Act:

- enhances the court's ability to put restrictions on individuals where it's necessary to protect people from the harm caused by modern slavery offences;
- requires businesses over a certain size to disclose each year what action they have taken to ensure there is no modern slavery in their business or supply chains.

Welsh Government legislation

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

The Social Services and Well-being (Wales) Act 2014 has 11 parts. Part 7 of the Act relates to safeguarding. Universities are not listed as ‘[relevant partners](#)’ within the Act. However, they may work in partnership with, or refer to organisations that are, covered by the legislation. Therefore, we have included the Act and drawn specific reference to Section 7 guidance [Working Together to Safeguard People Volume I – Introduction and Overview](#). Additionally, Part 1 of the Act provides an overview and some key terms:

- section 2 provides the meaning of the term “well-being”;
- section 3 defines for the purposes of the Act who is an “adult”, a “child”, a “carer” and who is to be regarded as “disabled”.

[Violence Against Women, Domestic Abuse and Sexual Violence \(Wales\) Act \(2015\) \(VAWDASV\)](#)

The aims of the VAWDASV Act include:

- improving arrangements to promote awareness of, and prevent, protect and support victims of, gender-based violence, domestic abuse and sexual violence;
- introducing a needs-based approach to developing strategies to ensure strong strategic direction and strengthened accountability;
- ensuring strategic level ownership, through the appointment of a Ministerial Adviser with a role in advising Welsh Ministers and improving joint working amongst agencies across this sector; and
- improving consistency, quality and join-up of service provision in Wales.

Further Information

- [National Strategy on Violence against Women, Domestic Abuse and Sexual Violence 2016-2021](#)
- [VAWDASV Cross Government Delivery Framework 2018-2021](#)

[Well-being of Future Generations \(Wales\) Act 2015](#)

The Well-being of Future Generations Act requires public bodies in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other. The Act provides a legally-binding common purpose through its seven well-being goals for public bodies such as HEFCW. The Act details the ways in which public bodies must work together (five ways of working) to improve the well-being of Wales. While Welsh universities are not covered by the Act, HEFCW is increasingly asking universities, through the allocation of funding, how their proposed funded activity supports the well-being goals and ways of working.

Welsh universities should consider the Act in the development of future safeguarding policy and practice development.

Welsh Government guidance

- [All Wales Child Protection Procedures 2008](#)
- [The Wales Safeguarding Procedures for children and adults at risk of abuse and neglect](#)
- [Nation of Sanctuary - Refugee and Asylum Seeker Delivery Plan](#)
- [Together for Mental Health Delivery Plan 2019-2022](#)
- [Welsh Government Taking Wales Forward 2016-2021](#)
- [Healthy and Sustainable Colleges and Universities Framework for Wales](#)

The Charity Commission

The [Charity Commission guidance](#) states '*Protecting people and safeguarding responsibilities should be a governance priority for all charities. It is a fundamental part of operating as a charity for the public benefit. Any failure by trustees to manage safeguarding risks adequately is of serious regulatory concern to the Commission. It may consider this to be misconduct and/or mismanagement in the administration of the charity and this may also be a breach of trustee duty*'.

The [Charity Commission's four strand safeguarding strategy](#):

- emphasises trustee awareness and prevention;
- explains the Commission's supervisory and monitoring role;
- describes how it co-operates with other agencies;
- explains when and how it intervenes, including the purpose and scope of its regulatory engagement.

Further information:

- The Charity Commissions [serious incidents to report table](#).
- The Charity Commission policy paper [Strategy for dealing with safeguarding issues in charities](#), 6 December 2017.

HEFCW well-being and health position statement and circulars with safeguarding implications:

- [Well-being and health policy statement](#);

- [Violence Against Women, Domestic Abuse and Sexual Violence \(VAWDASV\) guidance](#); and
- [Refugee and Asylum Seeker guidance](#).

Relevant reports with implications for safeguarding in HE

- [The Equality and Human Rights Commission - Tackling racial harassment: universities challenged](#)
- Universities UK [#stepchange](#)
- Universities UK [Suicide Safer Universities](#)
- Universities UK [Changing the Culture](#)
- Universities UK [Changing the Culture: one years on](#)
- Universities UK [Changing the Culture: two years on](#)
- Advance HE [staff and students with mental ill health; understanding adjustments: supporting staff and students who are experiencing mental health difficulties](#)