

# Consideration of subordinate legislation by the Education, Children and Young People Committee

1. This note provides information about the: [Children's Hearings \(Scotland\) Act 2011 \(Safeguarders Panel\) Amendment Regulations 2023](#).
2. These regulations may also be referred to by their Scottish Statutory Instrument number which is SSI 2023/66.
3. These regulations are being considered under the negative procedure.

## Timeline for Consideration

4. These regulations were laid before the Scottish Parliament on **6 March 2023**.
5. They were considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on [14 March 2023](#). No points were raised.
6. These regulations will be considered by the Education, Children and Young People Committee at its meeting on **29 March 2023**.
7. If the Committee wishes to produce a report on these regulations, it must do so by **24 April 2023**.

## Is there a requirement to hear evidence from the Cabinet Secretary on these regulations?

8. No.

## Purpose of the regulations:

1. The purpose of the Regulations is to update the definition of "the Practice Standards" for Safeguarders to allow revised Practice Standards to be implemented.
2. A copy of the Scottish Government's Policy Note is included in [Annexe A](#).
3. As part of a wider and ongoing review of policies relating to the operation and management of the national Safeguarders Panel, the Practice Standards for Safeguarders have been updated to account for recent developments in practice and legislation. The current Practice Standards have been in place since 2016.
4. In preparation for the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into Scots Law, the revised standards reflect a rights-based approach to the work of Safeguarders.

5. Regulation 3 of the Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2016 defines "the Practice Standards" as "the Practice Standards for Safeguarders published by the Scottish Government in July 2015."
6. In order for the revised Practice Standards to be implemented, this definition must be updated to refer to the publication date of the revised Practice Standards in February 2023.

### **Consultation**

7. The policy note states that a targeted consultation has been undertaken with key stakeholders. Primarily this has involved gathering the views of Safeguarders, and the Support Managers who monitor and assess their practice and performance. Key operational partners were also invited to give their views.
8. As part of the process of gathering evidence to support this change, engagement was undertaken with children and young people

### **Impact Assessments**

9. An Equalities Impact Assessment and a Children's Rights and Wellbeing Impact Assessment have been completed on the implementation of the revised Practice Standards. No negative effects regarding equalities or children's rights and wellbeing have been identified.
10. The policy note also states that having given due consideration to the limited impacts of this policy, it has not been considered necessary to undertake a Strategic Environmental Assessment (SEA), a Data Protection Impact Assessment, an Island Communities Impact Assessment (ICIA) or a Fairer Scotland Duty assessment

### **Financial Impact**

11. The Minister for Children and Young People confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

### **Procedure**

1. These regulations are being considered by the Education, Children and Young People Committee under the negative procedure.
2. This means that the regulations become law immediately, i.e. as soon as they have been laid before the Scottish Parliament. These regulations can, however, be annulled up to 40 days after this has happened.
3. Rule 10.4 of the Scottish Parliament's standing orders states that any Member of the Scottish Parliament can lodge a Parliamentary motion within the 40-day time period seeking an annulment of regulations.

4. All regulations considered under the negative procedure are scrutinised by both the Delegated Powers and Law Reform Committee (on various technical grounds) and by a lead committee (on policy grounds).
5. If a motion to annul is lodged, the lead committee will consider this and then hold a vote. If the motion is disagreed to, then the regulations will remain in their current form.
6. If, however, the majority of MSPs on the lead committee agrees the regulations should be annulled, then a further motion is lodged by the Parliamentary Bureau. This is then voted on by the whole Parliament.
7. If that is also agreed to (i.e. the majority of MSPs agree with it), then Scottish Ministers must revoke (withdraw) the instrument. It will no longer be law and the Scottish Government must lay a new set of regulations before the Scottish Parliament.
8. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.
9. The Committee is invited to consider the instrument.

**Jane Davidson,  
Committee Assistant  
Education, Children and Young People Committee  
23 March 2023**

## Annexe A

# POLICY NOTE

## THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (SAFEGUARDERS PANEL) AMENDMENT REGULATIONS 2023

### SSI 2023/66

The above instrument was made in exercise of the powers conferred by section 32(2) of the Children's Hearings (Scotland) Act 2011 and all other powers enabling them to do so. The instrument is subject to negative procedure.

This instrument updates the definition of "the Practice Standards" for Safeguarders, to allow revised Practice Standards to be implemented.

### Policy Objectives

In 2013, Ministers established a national Safeguarders Panel in accordance with Section 32(1) of the Children's Hearings (Scotland) Act 2011. The role of a Safeguarder is to safeguard the interests of the children and young people to whom they are allocated in Children's Hearings proceedings.

As part of a wider and ongoing review of policies relating to the operation and management of the national Safeguarders Panel, the Practice Standards for Safeguarders have been updated to account for recent developments in practice and legislation. The current Practice Standards have been in place since 2016. In preparation for the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into Scots Law, the revised standards reflect a rights based approach to the work of Safeguarders.

Regulation 3 of the Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2016 defines "the Practice Standards" as "the Practice Standards for Safeguarders published by the Scottish Government in July 2015." In order for the revised Practice Standards to be implemented, this definition must be updated to refer to the publication date of the revised Practice Standards in February 2023.

### Consultation

Throughout the development of the revised Practice Standards, targeted consultation has been undertaken with key stakeholders. Primarily this has involved gathering the views of Safeguarders, and the Support Managers who monitor and assess their practice and performance. Key operational partners were also invited to give their views.

As part of the process of gathering evidence to support this change, engagement was undertaken with children and young people. This included in-person engagement workshops with Our Hearings, Our Voice, the independent board for

children and young people from across Scotland between the ages of 8-18, who have experience of the Children's Hearings System.

Through this engagement process, it was established that revised Practice Standards should focus on the impact of Safeguarder practice on the rights and best interests of the child to whom they are allocated. It was also established that the revised Practice Standards should reflect and reference recent developments in policy and legislation as a result of the publication of the Independent Review of Care, the work of The Promise, and the progress towards incorporation of the United Nations Convention on the Rights of the Child.

## Impact Assessments

An Equalities Impact Assessment and a Children's Rights and Wellbeing Impact Assessment have been completed on the implementation of the revised Practice Standards and are attached. No negative effects regarding equalities or children's rights and wellbeing have been identified. The revised Practice Standards will give better effect to the implementation of the United Nations Convention on the Rights of the Child by embedding children's rights into the practice of Safeguarders. As a result of the impact assessments undertaken, child- friendly and accessible versions will be developed as part of the implementation of the revised Practice Standards.

Having given due consideration to the limited impacts of this policy, it has not been considered necessary to undertake a Strategic Environmental Assessment (SEA), a Data Protection Impact Assessment, an Island Communities Impact Assessment (ICIA) or a Fairer Scotland Duty assessment.

## Financial Effects

The Minister for Children and Young People confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Directorate for Children and Families

*March 2023*