



ADCS Policy Position Paper

Local Safeguarding Children Boards

ADCS Policy Position Paper on Local Safeguarding Children Boards (LSCBs)

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1.0 Introduction

1.1 The purpose of this short policy position paper is to articulate the professional advice of the Association of Directors of Children's Services (ADCS) members and to make a small number of recommendations to government, with respect to Local Safeguarding Children Boards (LSCBs). This paper does not cover the LSCB function to undertake serious care reviews.

1.2 ADCS fully supports the statutory requirement for every top tier local authority in England to establish an inter-agency LSCB.

1.3 What is the problem we are seeking to address? In May 2015, research commissioned by the LGA and undertaken by Research in Practice¹, was published. The findings from the research, *A Review of Current arrangements for the Operation of Local Safeguarding Children Boards*, identified a number of striking messages, centred around four themes, including:

- a) A lack of clarity on the role and expectations of LSCBs, linked closely to the perceived increase of responsibilities together with the emergence of new strategic bodies whose work interacts with that of LSCBs.
- b) The pressure on and widespread uncertainty around LSCB resources, was seen to be having an impact on effectiveness.
- c) The dissonance between the degree to which LSCBs are held accountable and the level of power and authority they have to exercise their responsibilities and in particular hold partners to account.
- d) The pivotal importance of LSCB chairs; the skills and qualities of the individual Chair is a vital element in determining Board effectiveness, which poses some risk in light of the limited amount of paid time available to chairs.

1.4 The research was primarily conducted with LSCB chairs, however the striking messages also reflect the concerns of ADCS members.

1.5 ADCS members believe that LSCB arrangements are not broken *per se*. The problem lies in how well the arrangements are understood and utilised by government, some local statutory partners (particularly those most closely directed by government departments),

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http://www.local.gov.uk/documents/10180/6869714/RiP_Review+of+current+arrangements+for+the+operation+of+LSCBs_May_2015.pdf/5940af9c-7ae5-4346-84b8-655c30b291c7

inspectories and others. This poor understanding has led to a burgeoning of expectations, and appears to underlie Ofsted's reviews of LSCBs.

1.6 Recent and forthcoming cuts to public services combined with the national political drive for a smaller, leaner state mean that the ability of LSCBs to ensure the effectiveness of local child protection systems must be strengthened in order to ensure that England remains one of the safest countries in the world for children to grow up in.

1.7 Moreover, as we look to the near future, devolution of powers from central government to local areas, reforms to local area decision-making, changes to local authority footprints (by the creation of combined authorities) will all impact upon the work of LSCBs. In order to maintain a focus on child protection and safeguarding at the heart of these reforms, there must be clarity now about what the LSCB is and is not for. LSCB arrangements need to be future-proof and sufficiently flexible to enable the core work of LSCBs to remain at the heart of emerging arrangements for combined authorities and other future changes.

1.8 Safeguarding and promoting the welfare of children has at its heart protecting children from harm. Ensuring that work to protect children is properly coordinated and effective is the **principal** statutory objective of LSCBs. Beyond this core business, LSCBs have a wider remit, which includes preventative work to avoid harm being suffered, including for example the effectiveness of early help provided to children and families. The functions of LSCBs described in Regulations (2006²) cover both the statutory objectives and the wider remit of Boards. The Regulations also provide for how some of those functions should be fulfilled. *Working Together to Safeguard Children 2010*³ (chapter 3) (superseded by the 2013⁴ and 2015⁵ revisions), made clear that "When this core business [work to protect children is properly coordinated and effective] is secure ... LSCBs should go beyond it to work to their wider remit."

1.9 ADCS contends that the burgeoning of expectations with regard to the wider, preventative remit of Boards is in danger, if it continues apace, of detracting from the achievement of the principal statutory objective of protecting children from harm.

2.0 Recommendations

ADCS fully supports the statutory requirement for every top tier local authority in England to establish an inter-agency LSCB. LSCBs must have a clear role and a clear focus in order to maintain confidence in the arrangements. To those ends, ADCS recommends that:

² http://www.legislation.gov.uk/ukxi/2006/90/pdfs/ukxi_20060090_en.pdf

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<http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eor/deringdownload/00305-2010dom-en-v3.pdf>

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417669/Archived-Working_together_to_safeguard_children.pdf

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419595/Working_Together_to_Safeguard_Children.pdf

1. The role of LSCBs is re-stated with a strong emphasis on fulfilling its principal statutory objective of ensuring that work to protect children is properly coordinated and effective. This does not require changes to legislation, statutory guidance or to Regulation. It does, however, require government and regulators to recognise that Boards can and must prioritise this objective over all others.
2. The LSCB has a pivotal role to play in promoting awareness in other local fora that safeguarding is everybody's business. It is the fulcrum where agencies are held to account for their safeguarding responsibilities. But, the means by which the fulfilment of the wider, preventative remit of Boards is achieved should be for local determination and agreement, based on evidence as to which partnership arrangements, if not the LSCB, are best placed to fulfil the wider preventative work of safeguarding and promoting the welfare of children.
3. ADCS members urge government not to repeal legislation on children's trusts arrangements.
4. The children's services sector is beset by variable standards amongst LSCB chairs. The supply of suitable people with the relevant competencies, skills and experience to chair LSCBs requires serious consideration. Although there is not yet an emerging consensus amongst ADCS members, as to how best to address this issue, there is a spectrum of views and possibilities, from training, to a formally constituted professional development programme, through to a national process to validate or licence chairs.

3.0 Leadership and Accountability

3.1 Effective public services can only be delivered in partnership across agencies – the local authority, schools and colleges, police and the health economy engaging strategically with business leaders, voluntary and private sector providers in a locality. The local authority leads these partnerships on behalf of the citizens its elected members represent. It is not only the democratic legitimacy of the local authority that makes it best placed to lead local partnerships but it also has a fundamental role in coordinating services that impact upon the lives of its citizens. Moreover, in recent years the local authority has also been a key source of stability as organisational boundaries for other agencies (notably health) have frequently changed. It is important to have local continuity and partnership 'corporate memory' to ensure lessons are not lost over time.

3.2 It follows, therefore, that effective children's services can only be delivered in partnership requiring a high level of cooperation between agencies - the local authority, schools, police and the health economy in particular. The local authority not only leads this aspect of the local partnership, it carries 200 or more statutory duties and responsibilities with respect to promoting the safety, health, wellbeing and educational attainment of all children and young people living in the local area.

3.3 *The Children Act 1989* defines in some detail **the local authority's lead role** with regard to protecting children from harm. *The Children Act 2004*⁶ builds upon and, helpfully, broadens those duties to encompass an holistic approach that includes safeguarding and wellbeing. The 2004 Act also established the statutory roles of the Director of Children's Services (DCS) and the statutory requirement to designate a Lead Member for Children's Services. The statutory guidance on the roles and responsibilities of these two important roles⁷ (revised in April 2013), invests the single point of professional accountability in the role of the DCS.

3.4 The leadership role of the DCS, outlined in the statutory guidance, is to orchestrate the local, often complex, systems in which the interactions between agencies and the impact of actions by those agencies on individual children and families are highly interdependent. ADCS members freely acknowledge the benefit of the local authority Chief Executive's involvement in the appointment and performance management of the independent LSCB Chair.

3.5 Arrangements are in place in local areas to hold DCSs and LSCB chairs to account. It is important that there are clear and effective governance arrangements to connect the work of the LSCB in coordinating and scrutinising the effectiveness of each agency's contribution to the protection of children, to the work of partner agencies.

3.6 It follows, therefore, that the Independent LSCB chair plays an important role in these complex local ecologies. It is important to recognise however, the exact nature of that independence. The local authority Chief Executive hires (pays) and fires the LSCB Chair. This provides an 'independent-enough' arrangement, independence could not be achieved in a purist form anyway, even if chairs were to be appointed by a central body. This local 'supervision' and clear line of accountability from the LSCB chair to the local authority Chief Executive for the effectiveness of the Board's work, is essential.

3.7 Overall, ADCS members believe that independent chairs have largely been a good thing. However, ADCS members are concerned that independent chairing has become an orthodoxy. The effectiveness of the chair comes down to the quality of the individual and not their independence *per se*. Currently there is great variation in standards amongst LSCB chairs. This must be addressed. The supply of suitable people with the relevant competencies, skills and experience to chair these partnership arrangements requires serious consideration. Although there is not yet an emerging consensus amongst ADCS members as to how best to address this issue, there is a spectrum of views and possibilities, from training, to a formally constituted professional development programme, through to a national process to validate or licence chairs.

⁶ <http://www.legislation.gov.uk/ukpga/2004/31/contents>

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271429/directors_of_child_services_-_stat_guidance.pdf

4.0 Role of the LSCB

4.1 It is helpful to reflect, briefly, on why Boards were established in first place.

- In 1974, the inquiry into the death of Maria Colwell at the hands of her stepfather highlighted a serious lack of coordination among services responsible for child welfare. Its report led to the development of Area Child Protection Committees (ACPCs) in England and Wales, which were established to coordinate local efforts to safeguard children at risk.
- In January 2003, Lord Laming published his report into the death of Victoria Climbié. It recommended and led to arrangements to put those coordinated partnerships onto a stronger and statutory footing to give greater strength to those ways of working.
- In September 2003 the Green Paper *Every Child Matters* proposed the establishment of statutory LSCBs to replace ACPCs.
- In November 2004 *The Children Act 2004* was passed by Parliament enshrining in statute the requirement for every top tier local authority in England to establish a LSCB.

4.2 In the last few years of the decade that has elapsed since the Children Act 2004 was enshrined in statute, ADCS members, and others, feel there has been significant 'mission creep' around LSCBs.

4.3 LSCBs are now asked to lead on all sorts of emerging concerns, with the suggestion of a **delivery role** in areas such as child sexual exploitation, female genital mutilation, the radicalisation of young people and whole families, sham marriages, forced early marriages, people trafficking, historical sexual abuse, thresholds for intervention and early help – the list goes on. This mission creep – from coordinating and overseeing the effectiveness of the activity of constituent partners, to a sense of responsibility to commission or deliver services and solutions – has led to inappropriate expectations being placed upon LSCBs, expectations which they are not established, equipped nor funded to fulfil. This mission creep has led to a lack of clarity about the core role of LSCBs, which in turn is limiting the effectiveness of some LSCBs and driving up costs for all Boards.

4.4 The rising expectations and lack of clarity about the role and functions of the LSCB are to some extent a result of a lack of understanding within some central government departments and by some statutory partners of this fact. This misconception of the role has in turn resulted in the current disproportionality of some of the recent expectations placed upon LSCBs. Therefore, there needs to be a clear re-statement of the role at national and local levels.

4.5 What then is the role of the LSCB? The statutory objectives of LSCBs are set out in Section 14 of *The Children Act 2004*:

- a) To coordinate what is done by each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in their area
- b) To ensure the effectiveness of what is done by each such person or body for those purposes.

ADCS proposes that Boards' focus should be on ensuring that work to **protect** children is properly coordinated and effective. The LSCB should also agree which, if any, of the plethora of other local partnership arrangements are best placed to fulfil some of the wider preventative work that LSCB Regulations allow for.

4.6 LSCB objectives are pursued through LSCB functions. Regulation 5 of the Local Safeguarding Children Boards Regulations 2006 sets out those functions of the LSCB, as:

- a) **Developing policies and procedures** in relation to: action to be taken where there are concerns about a child's safety or welfare, including thresholds for intervention; training , recruitment and supervision of and investigation of allegations concerning persons who work with children; safety and welfare of children who are privately fostered; and cooperation with neighbouring children's services authorities.
- b) **Communicating with and raising awareness** amongst persons and bodies in the area of the need to safeguard and promote the welfare of children, and encouraging them to do so.
- c) **Monitoring and evaluating the effectiveness** of what is done by Board partners individually and collectively and advising them on ways to improve.
- d) **Participating in the planning of services for children**; and
- e) **Undertaking Serious Case Reviews (SCRs).**

4.7 Regulation 5 (3) provides that a LSCB may also engage in any other activity that facilitates, or is conducive to, the achievement of its objectives.

4.8 The LSCB is therefore a partnership arrangement that is a visible manifestation of the mutual responsibilities of the senior leadership of individual agencies which have particular duties to protect children and young people.

4.9 The core role needs to be tightly prescribed; a re-statement of the principal statutory objective of ensuring that work to protect children is properly coordinated and making sure that single and inter-agency arrangements work effectively to bring about good outcomes for children. The means by which the fulfilment of the wider, preventative remit of Boards is achieved should be for local determination and agreement, based on evidence as to which partnership arrangements, if not the LSCB, are best placed to fulfil the wider preventative work of safeguarding and promoting the welfare of children. The LSCB itself should be a key forum for these discussions.

4.10 Many localities have maintained children's trust-type partnership arrangements, though it is increasingly difficult for small local authorities to do so in addition to the LSCB, Community Safety Partnerships (CSP - in a large county there could be ten or more CSPs in addition to the county-wide arrangements), Health and Wellbeing Board (HWB), Child Death Overview Panel (CDOP), Local Strategic Partnership (LSP), etc all of which are essentially trying to achieve the same or similar outcomes. ADCS members urge government not to repeal legislation on children's trusts arrangements thereby allowing local authority areas to determine how best to achieve the wider, preventative remit of Boards.

4.11 It may be helpful here to reflect briefly upon what Boards are not, in the view of ADCS members:

- The statutory guidance *Working Together to Safeguard Children*⁸ (HMG, March 2015) clearly establishes that LSCBs do not commission or deliver direct frontline services, though they may provide training. Neither do they design or manage services.
- They cannot therefore be held accountable for service provision.
- LSCBs are not quasi-inspectoral bodies. They do not have the power to direct other organisations. The LSCB's role in ensuring the effectiveness of work to safeguard and promote the welfare of children by member organisations is essentially fulfilled through a peer review process, based on self-evaluation, and largely achieved through joint audits of case files. Its aim in ensuring the effectiveness of this work is not to give assurance to government about how agencies are addressing and preventing threats to the protection of children, rather its aims are to promote high standards of safeguarding work and to foster a culture of continuous improvement, whilst each Board partner retains its own existing line of accountability for safeguarding.

5.0 Funding Follows Function

5.1 Some LSCBs report difficulties to varying degrees, of securing financial contributions from partners, despite the clear requirement in Chapter 3 (paragraph 19) of *Working Together* (HMG, March 2015⁹) that "All LSCB member organisations have an obligation to provide LSCBs with reliable resources (including finance) that enable the LSCB to be strong and effective." The frustration amongst ADCS members about funding for LSCBs is for some symbolic of the lack of free ownership of partnership responsibility on the part of some agencies.

5.2 If, as ADCS members propose, there is a sharper emphasis on Boards fulfilling the principal statutory objective of ensuring work to protect children is properly coordinate, it is most likely that Board chairs will be able to operate effectively within the confines of the relatively limited amount of paid time available to chairs.

5.3 ADCS members have weighed the benefits and disadvantages of a notional national funding formula for Boards. Members also considered whether, *in extremis* a more blunt measure, similar to police precepting powers, might be an option but felt such a measure would not be appropriate as it runs contrary to the spirit of mutual responsibility. On balance, however, ADCS members believe there would be support for the idea of guidance setting out what an expected formula for contributions should look like from local agencies reflective of their responsibilities to support the LSCB, but falling short of imposing this. Alongside this, clear escalation mechanisms are required and should be pursued with rigour where necessary.

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419595/Working_Together_to_Safeguard_Children.pdf

⁹ Ibid.

6.0 Escalation Mechanisms

6.1 The difficulty in defining a clear escalation mechanism for partner agencies failing in their duty to protect children or failing to contribute to the LSCB, is what comes next? What recourse does the person to whom concerns have been escalated have to challenge and rectify the problem?

6.2 *The Children Act 2004* places on a statutory footing the obligation for named agencies and individuals to cooperate to safeguard children and promote their welfare. Section 11 of the Act makes clear to whom this duty applies and indicates that they must make arrangements for ensuring that: 'their functions are discharged having regard to the need to safeguard and promote the welfare of children'.

6.3 The 'Section 11 Audit' when done well, allows the LSCB to assure itself that agencies placed under a duty to cooperate by the legislation, are fulfilling their responsibilities to safeguard children and promote their welfare.

6.4 Chapter 2, (paragraph 4) of *Working Together* (HMG, March 2015¹⁰) outlines the arrangements that Section 11 organisations should have in place which must be demonstrated by agencies in order to fulfil their commitment to safeguard and promote the welfare of children. These arrangements fall into seven broad categories: leadership & accountability; policies & procedures; recruitment and selection; staff induction, training & development; complaints, allegations & whistle-blowing; information-sharing; and a demonstrable culture of listening to children. Section 11 audits are a good means of evaluating agencies' compliance with these arrangements and can form a good basis for escalating concerns in combination with the, statutorily required, publication of the LSCB Chair's annual report.

6.5 The annual report of the LSCB Chair should include transparent financial accounts, showing the financial contribution of each of the partner agencies. These annual reports were once shared at local area agreement boards but those fora no longer exist. Every local area does have however, some form of public sector forum made up of local public leaders. The annual report is also submitted to the local authority Chief Executive, the Leader of the Council, the Chair of the Health & Wellbeing Board and the Police and Crime Commissioner. Between these four senior local leaders and the local area's public sector forum ADCS members believe that concerns about any agency that either won't play or won't pay can be resolved. The LSCB annual report should be considered at the Health and Wellbeing Board, not simply submitted to the chair of that Board. Guidance could be strengthened to ensure that the Health and Wellbeing Board considers the effectiveness of contributions from local partners and the appropriateness of funding arrangements including the financial contributions of local partners.

6.6 Sat alongside the escalation mechanism, there should also be a locally published clear statement of expectation that each of the relevant partner agencies will make a financial

¹⁰ *ibid*

contribution to the costs of running the LSCB. Those costs should become more manageable if the role of the LSCB is sharpened as proposed in this paper.

7.0 Conclusion

ADCS would welcome further dialogue with government and other relevant stakeholders, including inspectorates on these matters.