

Our Bravery Brought Justice

Extended Child Practice Review
Gwynedd 2024

Brief outline of circumstances resulting in the Review

Legal Context

This extended Child Practice Review (CPR) was commissioned by North Wales Safeguarding Board on the recommendation of the Child Practice Review Sub-Group following receipt of a joint referral by LA1 and North Wales Police. This is in accordance with the Guidance for Multi Agency Child Practice Reviews¹. The criteria for this Review are met by the details of the case:

Circumstances leading to the Review

On the 6 September 2023 a pupil at Ysgol Friars, a school in North Wales, showed staff images and messages on her phone which she reported were from the Headteacher, Neil Foden. The phone number was checked and confirmed to be that of the Headteacher. The content of a number of the messages was explicitly sexual and images showed the pupil in Foden's car. The pupil is reported in the referral by the member of staff who took the disclosure to have said that she had been in a '*romantic relationship*' with Foden for a number of months prior to disclosure.

Foden was arrested later the same day and remanded in custody. Following this, other victims came forward making disclosures of a sexual nature. The criminal case went to court in April 2024 and Foden was sentenced on 1 July 2024. Foden was found guilty of 19 charges against four female pupils at the school where he was Headteacher, including 12 counts of sexual activity with a child and two counts of sexual activity with a child while in a position of trust. He was acquitted on charges relating to one other child. Foden was subsequently sentenced to 17 years imprisonment and is currently serving his sentence. The judge recognised in his summing up that Foden had been under-charged.

The CPR Chair interviewed Foden on two occasions in July 2025.

¹ <https://www.gov.wales/sites/default/files/publications/2019-06/working-together-to-safeguard-people-volume-2-child-practice-reviews.pdf>

For the purpose of this report, the following anonymisation is used:

Victims/ Survivors
Child victims/ survivors of Foden's sexual abuse A, B, C, D, E, F, G, S
Child victims/ survivors of Foden's use of restrictive processes/ restraint H, I, J, M

Adults	Abbreviated to:
Headteacher Ysgol Friars/Perpetrator	Foden
Former Designated Safeguarding Person Ysgol Friars	DSP 1
Senior Management team- wider group of school leaders outside Core SMT	SMT
Core Senior Management Team, Ysgol Friars	Core SMT 1
Core Senior Management Team & Designated Safeguarding Person, Ysgol Friars	DSP 2 (also a member of Core SMT)
Core Senior Management Team, Ysgol Friars	Core SMT 3
Deputy Designated Safeguarding Person, Ysgol Friars	DDSP
Chair of Governors, Ysgol Friars	Chair of Governors
Deputy Chair of Governors, Ysgol Friars	Gov 2
Chair of Governors, School 2	Gov 3
Designated Safeguarding Person, School 2 (<i>Foden appointed Executive/ Strategic head in School 2 on temporary basis</i>)	Deputy Head DSP School 2
Social Work Practitioner	LA2 Children's Services Practitioner
Local Authority 1 Chief Executive	LA1 Chief Executive
Local Authority 1 Children and Family Services	LA1 C&FS
Local Authority 1 Education Department	LA1 Ed
Local Authority 1 (Former) Director of Children & Families Services	LA1 Director C&FS
Local Authority 1 Head of Children's Services	LA1 Head C&FS
Local Authority 1 Children's Services Senior Manager, Local Authority Designated Officer for Child Safeguarding	LA1 C&FS Senior Manager LADO
Team Leader Local Authority 1 Children's & Family Services	LA1 Team Leader C&FS
Local Authority 1 Head of Education	LA1 Head of Education 1
Local Authority 1 Head of Department, Education, Later Head of Education	LA1 Senior Manager Ed2, Later Head of Education 2

Designated Lead Officer for Safeguarding Children in Education	LA1 Ed3
Local Authority 1 Legal	LA1 Legal
Local Authority 1 Statutory Director of Social Services	LA1 Stat Dir SS
Local Authority 1 (Former) Corporate Director	LA1 Former Corp Dir
School Police Liaison Officer	NWP School PLO

Other	
Local Authority 1	LA1
Neighbouring Local Authorities	LA2, LA3
North Wales Police	NWP
Betsi Cadwaladr University Health Board	BCUHB
Welsh Joint Education Committee	WJEC

All acronyms used in main body text are listed in appendix 1.

Time Period Under Review and Why

The inaugural meeting of the CPR Panel agreed the period under review would be January 2017 (based on first documented incident) until 6 September 2023, the day of the arrest. However, in line with the guidance, it was unanimously agreed by the Panel in May 2025 that the timeline would be extended to the 30 September 2023 in order to enable a review of actions taken on the day of disclosure and the days following, and to identify any lessons learned from the agency responses.

North Wales Police (NWP) were able to share intelligence about additional and non-recent matters of concern relating to Foden. This background provided Reviewers with useful insight into the wider context of his offending behaviour. These have been taken into consideration in formulating the hypotheses and recommendations.

Since Foden's conviction in July 2024 further victims have come forward. The earliest alleged sexual abuse was in 1979 when Foden had just qualified as a teacher and was in his first post. Given the significant changes in society's understanding of child sexual abuse, reviewing practices in operation at that time would not increase current learning. The victim from 1979 agrees with this position.

Timelines, chronologies and analyses were submitted by 14 agencies in the three local authorities - Local Authority 1, Local Authority 2 and Local Authority 3 who had contact with the school by virtue of some pupils attending Ysgol Friars being resident outside LA1's border.

Agency	Chronology	Analysis
Local Authority 1 Education	x	x

Ysgol Friars	Requested repeatedly-not supplied	
Local Authority 1 Children & Family Services	x	x
NSPCC	x	x
SARC	x	
North Wales Police	x	x
BCUHB Hospital records	x	
BCUHB GP Records	x	
LA3 Social Services	x	
LA3 Education	x	
LA2 Children and Family Services	x	
BCUHB CAMHS	x	
BCUHB Child Health Records	x	

Information was merged into one overarching chronology that has been presented to the Reviewers. Ysgol Friars was not able to submit a chronology of events to the CPR despite having been asked. The lack of stable leadership in the school in terms of Headship and Governance, the frequent changes of roles and responsibilities in LA1 Education Department, coupled with the paucity of contemporaneous records kept in both organisations prevented the Review from constructing a chronology retrospectively. Neither of Foden's Deputy Headteachers (SMT 1 and DSP 2) made themselves available to speak to the Review beyond initial introductions during the first visits to the School in July and October 2024, although the CPR team did make LA1 SMT 1 aware in July 2024 that they were making a Safeguarding Referral about a member of staff to LA1 C&FS about a member.

This is a complex case spanning just under 7 years and involving a prolific sex offender who harmed many children. This Review is unique in its size and scale, analysing ten times the volume of information that is usually reviewed in a CPR. That notwithstanding the Reviewers were mindful that the victims/survivors and those supporting them had already endured a significant period of time between Foden's arrest and conviction, and the appointment of the CPR team and Panel. It was therefore resolved that the Review should aim to be completed in as close to a year as possible.

Foden was a powerful figure within the Education community in Wales, including high profile union involvement, association with the WJEC and presenting to Welsh Government and the Senedd. Many of those who had not met him may have known of his wide-ranging reputation as a bully.

Foden courted the media- as demonstrated by his national press coverage over the dinner money scandal in late 2021- and was also the subject of posts on social media including videos, some of which were posted by pupils.

The Reviewers and Panel

The case had high profile media reporting, involved a number of local authorities and public sector agencies and it was therefore imperative that the Reviewers were independent. In order to guarantee independence, a Child Practice Review Chair and the Reviewers who were selected had not previously worked for any of the agencies involved within North Wales. The Child Practice Review Chair is a Registered Social Worker with a background in Criminal Justice and Child Sexual Abuse. One Reviewer is a fluent Welsh speaker with a recent background in Education and had previously worked on improving the effectiveness of multi-agency public service delivery. The other Reviewer has experience in both Education and Children's Social Care held role of LADO in London and worked in a multi-agency environment across 33 London Boroughs. All Panel meetings were conducted with a provision for simultaneous translation.

It was important that none of the CPR team had professional or familial connections in North Wales. All identified panel members confirmed there were no conflicts of interests with the case material identified (this was reviewed continuously throughout the process). One member of the initial Review team stood down in October 2024 when it emerged that an extended family member had historically held a role in LA1 at a time outside the terms of reference.

On commencement of the Review process, in July 2024, Ysgol Friars was about to break for the summer holiday. There had also been a restructuring process which had led to redundancies. This meant the Reviewers needed to make themselves available in school immediately to hear direct from staff. The Reviewers therefore visited the school in July 2024. This was the first of a total of nine days spent on site, meeting with over 80 staff and interviewing a further 60. The Reviewers were approached by retired staff, those who were on maternity leave and others who were absent from school. All requests to meet with the Reviewers were accommodated. Parents were informed and provided with the Review email address and the opportunity to contact and meet the CPR Chair and Reviewers. The Review Panel recognised that there were barriers to engaging in this process for some, including issues of confidence, or needing additional assistance to access the Review process. Arrangements were made to enable their involvement, and for their voice to be heard, as outlined in the 9 protected characteristics of the *Equalities Act (2010)*².

Over the twelve months of the Review, the Reviewers have met and spoken with 140 individuals representing all relevant groups and agencies, some of whom had needed time to come forward. The Chair, Reviewers and Panel recognise and value their courage in doing so.

At the heart of the Review are the victims/survivors directly harmed by Foden. The CPR Chair contacted them via those tasked with supporting them and offered to meet with them at a time and place of their choosing accompanied by their families or advocates. Some of the victims/survivors felt able to participate in the Review and the CPR Chair reported back to them on the CPR process and draft

² <https://www.legislation.gov.uk/ukpga/2010/15/contents>

recommendations to ensure their voice was heard and they could contribute to the recommendations.

The Reviewers and CPR Panel wish to acknowledge their bravery and strength in choosing to contribute to this Review in their desire to better protect others in the future, despite having already been involved in the prolonged journey of the case through the Criminal Justice System. The Reviewers are indebted to them.

The CPR process allows for Reviewers to review all the information available in order to develop hypotheses about what enabled harm to be caused. The hypotheses were reviewed and then approved by the Panel and further refined at Learning Events which were open to frontline staff who had involvement in the case. Because of the scale of this Review, five multi-agency Learning Events were held in the first half of 2025- four for practitioners and one for managers. Contributions made at these events have been incorporated into this Report. The hypotheses form the backbone of this report and basis for the recommendations, the aim of which is to reduce the likelihood of abuse happening again.

The CPR Chair has continued to meet with victims and their families (where appropriate) throughout the Review. The CPR Team delivered a briefing to the current Governing Body at the school to ensure learning could be acted on at the earliest opportunity rather than wait for publication of the Review. Similarly, any immediate opportunities to improve service delivery were identified with, and referred to, relevant agencies so that improvements were not hindered pending the finalisation of the CPR process.

Background

Foden joined Ysgol Friars (School) as a teacher of English in 1988 and was promoted to Deputy Head before becoming Headteacher in 1997. Foden had been described to the Panel as being '*larger than life*' - both in stature and presence- renowned for the way in which he ran the school. Well known in the local community, Local Authority and often referenced by local and national press, the BBC referred to Foden as being the '*go to person*' if an opinion was needed on a controversial matter or where other Headteachers in Wales were reluctant to engage.

A prominent figure in the education union now known as the National Education Union (NEU), in 2018 Foden was found guilty by the Education Workforce Council (EWC) of having bullied a member of his own staff who was subsequently awarded compensation. Foden was widely acknowledged by those interviewed as being a bully. This behaviour was linked to a matter which had resulted in a complaint being made about him to the exam board (WJEC) regarding the manipulation of examination results. This complaint was also upheld.

In 2018, following the sudden death of the Deputy Head and Designated Safeguarding Person (DSP 1), Foden appointed himself as Pastoral Lead at the school and took on the role of oversight of safeguarding matters, supported by the School Office Manager. At this point Foden also implemented a change in the

structure of the pastoral team, replacing professional teaching staff with non-teaching staff taking up the Heads of Year role. At the end of 2018, a new Deputy Head and Designated Safeguarding Person was appointed to the role of DSP (DSP 2) in Ysgol Friars, despite lacking any notable safeguarding experience. DSP 2 was supported by the School Office Manager who was untrained and also inexperienced in safeguarding.

In 2018 the first concern about Foden's interactions with a female pupil was raised. This was soon followed by a series of other complaints and concerns being raised with both LA1 Education (LA1 Ed) and Children and Families Services (LA1 C&FS) departments.

During the period under review, numerous concerns were raised about Foden. These are summarized in the table below. The red bullet points indicate when Foden was reportedly spoken to about his behaviour.

Prior to his arrest in September 2023 Foden did not have any criminal convictions recorded against him. Following his sentencing in July 2024 a further victim has come forward to the Reviewers alleging a non-recent sexual assault by Foden when she was a child and is therefore being treated as a victim by the team.

Timeline

Due to the complexity and size of the CPR a summary timeline has been added below as an overview/introduction to the case.

The red bullet points in the right-hand column refer to recorded references of Foden having been spoken to by officials or colleagues about the need to modify his behaviour. There are no written records of the content of these discussions, nor of Foden's response.

Foden's victims of sexual abuse were all female.

Foden's victims of excessive force used in restraint were all male.

Date	Incident	
1979		
	Alleged sexual assault of a child – victim disclosed in 2023	
1997		
	Foden appointed Headteacher Ysgol Friars	
2017		
	Foden taken to tribunal for bullying staff	
	Complaint to exam board re manipulation of exam results	
2018		

	Foden messaging Child C online late at night	
	Child C seen in Foden's office, asleep with head on desk	
July	Child A reports concern re Foden's relationship with Child C. Education speak to Foden. Reported to LA1 C&FS and NWP	
July	Hostel Manager reports concern re relationship between Foden and Child C to LA1 C&FS	
August	Foden assumes pastoral lead role after death of DSP 1	
2019		
January	Foden restructures the school pastoral team	
January/February	Child A - Foden attends Child Protection meeting in LA2 & accompanies her to Police interview	
March	Foden accompanies Child A to GP appointment without parents' knowledge	•
	Noted by agencies that Child A had Foden's email address	
	Foden accompanied Child A to the SARC	
	Core SMT 1 spoke to Foden about his being alone with vulnerable female pupils, as he could be vulnerable to false allegations	•
April	Foden accompanies Child A to hospital Gynaecological appointment	
	Core SMT 1 speaks to Head of Ed1 re his concerns about Foden having 1:1 contact with Child A and Child C	
	Meeting of senior LA1 officials to discuss – outcome Head of Ed1 to speak to Foden about boundaries	•
May	Foden accompanies Child A to second gynaecological appointment & medical outcome letter sent c/o Foden at school address	•
June	Foden tells Part 4 meeting in LA2 re Child A that she had previously made an allegation against him. This was not challenged	
July	LA2 Children's Services practitioner reports concern about the relationship between Foden and Child A	

	Child A's mother reports to LA2 Children's Services practitioner her concerns about relationship between Foden and Child A	•
	Both concerns referred to LA1 C&FS	
	Child A's mother reiterates her concerns	•
	Senior officers in LA2 Children's Services request matter discussed with police – LA1 C&FS refused	•
2020		
February	NSPCC make referral to LA1 C&FS re Foden's relationship with Child A	
	SARC make similar referral to LA1 C&FS re Foden's relationship with Child A	
March	LA1 C&FS determine threshold not met for Part 4 investigation	
	COVID School closure	
April	Foden known to have Child A and Child C in the school during Covid lockdown	
	Core SMT 1 & 3 at the school exchange messages that Foden was putting himself at risk of malicious allegations	
May	Child S complained to school staff that Foden was too physically close to her	
October	EWC find Foden guilty of professional misconduct and issue 2-year reprimand	
2021		
May	Allegation of inappropriate restrictive practice by Foden against Child I	
June	Foden appointed Executive/ Strategic Head of School 2	
September	Allegation of inappropriate restrictive practice Child I Section 5 meeting held	
October	Referral from School 2 re Foden's interactions with Child G	
	Separate referral from Mental Health Care agency re Foden's interactions with Child G	
	S.47 Investigation held by LA1 C&FS re Child G	
November	Foden hits national headlines re school dinners issue	
	Child Protection meeting re restrictive practice Child I	

	Section 5 Professional Strategy Discussion re behaviour with Child G	•
	Suspension of Foden recommended by LA1 Director Social Services leads to instruction to Foden by Chair of Governors to work from home- no suspension	•
	Incident of unreasonable force Child J	•
2022		
January	Foden returns to work in both schools	
	Further concerns raised about Child G	
	Section 5 meeting re Child I	•
February	Use of unreasonable force referred re Child H. Section 5 and s.47 discussions held	
October	Concerns raised about Foden being alone in his room with Child F	•
November	Foden alleged to have sexually assaulted adult female on school premises	
2023		
March	Core SMT 1 & 3 and DSP 2 discuss concerns about Foden's meeting with female pupils alone in his room	
	DSP 2 writes to Foden detailing Core SMT's concerns & includes requests that future meetings with children be held with door open, lights on and blinds up	•
June	Member of staff raises concerns with Core SMT 1 & 3 and DSP 2 about Foden's interactions with Child F	
July	Carer of Child F raises concerns about Foden's relationship with Child F	
	At meeting with Social worker Child F discloses Foden had hugged her without her permission	
	Social worker refers concerns re Child F to LA1 C&FS	
September	Child D discloses sexual abuse by Foden	
	Foden arrested	
	Section 5 Professional Strategy Meeting	
	Senior Officers Meeting	
	Governing Body Extraordinary Meeting	

Key events and agency involvement

In April 2017 a safeguarding meeting was held in regard to Child A who had recently joined the school. At this meeting a safety plan was discussed, and it was agreed that Child A should engage with the female Office Manager (later appointed DDSP) for support. A note was made on the School Information Management System (SIMS) and posted prominently in the Staff Room that she should not be alone with male members of staff.

In early 2018 evidence on the school system showed that Foden was frequently messaging Child C, using her personal email address. Messages were often sent out of school hours and late at night. This was not identified as a cause of concern at the time.

Child C was known to the then Office Manager (later appointed DDSP) to be spending time in Foden's office, for example sleeping with her head on his desk.

On 9 July 2018 Child A reported to the NWP School Liaison Officer her concerns about another pupil (identity unknown to Child A at the time) who she had observed walking alone with Foden over recent weeks on the school site and getting into his car. This child was identified by the school as being Child C. NWP referred the concern to DSP 1, who was immediately able to identify the pupil as Child C. DSP1 described Child C as vulnerable and explained that she needed a lift home as he believed she would not have been safe on public transport. This explanation was accepted by NWP and LA1 C&FS. Neither Child A nor Child C were spoken to about this, and no further action was taken. There is no evidence that the Chair of Governors was informed of the concerns about Foden.

9 July 2018 was identified by the Review as the first time that the Local Authority should have been put on notice about concerns relating to Foden and his interaction with children.

This was a missed opportunity

Less than two weeks later, on 24 July 2018 the Manager of the hostel where Child C was resident notified NWP that they had referred concerns to both Children's and Adult Services in LA2 where Child C was resident. At this time Child C was 18 and preparing to sit her A level exams.

The hostel Manager reported that Child C was frequently alone with Foden in his room at school; she was also given a lift in his car. The Manager requested an objective assessment of the risks to each party.

The information was shared with LA1 C&FS and LA1 Ed. The resulting decision made to take no further action was based on the belief that as a criminal threshold had not been met, no further action was needed. The agencies did not consider the

suitability (See appendix 1) of Foden's behaviour in having such close contact and interactions with Child C in terms of his professional position.

There is no evidence that a connection was made between the concern raised on 24 July 2018 and the referral made less than two weeks previously that each related to the same child. Child C was not spoken with on this occasion and the Chair of Governors was not informed, even though this was the second referral within 2 weeks regarding Foden and Child C. No further action was taken on either case.

This was a missed opportunity

On 15 August 2018 DSP 1 died and Foden assumed the role of safeguarding and pastoral lead although he had no qualifications, expertise or experience in this field. The Reviewers have seen no evidence of management oversight by the Chair of Governors or LA1 Head of Education 1 over his *de-facto* adoption of this role.

Between August 2018 and January 2019, the Office Manager whose experience in safeguarding at the time was limited to supporting the late DSP 1, took on the role of DDSP and was managed by Foden. The newly appointed DDSP was reassured by Foden that despite their lack of training that they could turn to him for support and guidance '*as an expert*'.

In January 2019 the new Deputy Head Pastoral (DSP 2) took up his post. He came from a pastoral Key Stage 3 role in an independent girls' school in England, with limited experience of safeguarding arrangements in Wales and limited safeguarding training. This was recognised by Foden who agreed to continue with his oversight of the safeguarding function until DSP 2 was able to access an appropriate level of safeguarding training. The Review could not evidence that DSP 2 had received previous safeguarding training, other than the basic training routinely provided to all teachers. This lack of safeguarding expertise was particularly significant because of the size of Friars, a school of 1400 children, and the requirements of the role.

In January 2019 Child A made a disclosure to both Foden and a member of pastoral staff detailing safeguarding concerns which related to a professional employed in a statutory agency. As a result of this LA2 held a series of meetings under Part 4 of the AWCPP 2008 (see appendix 1). Minutes of the meetings show Foden in attendance.

On 31 January 2019 it was agreed that in relation to that allegation, Child A would attend an ABE interview (see appendix 1). Child A would need a responsible adult to accompany her to the interview as family circumstances meant that she did not wish to be accompanied by her mother. Foden volunteered to accompany her to this interview, an unusual undertaking for a Headteacher, particularly in a school of this size.

On 2 February 2019 it was noted at the second Part 4 Meeting that Child A had Foden's work email address and that Foden had taken her to a GP appointment. This was also unusual but was not remarked upon. Child A was 15 at this time.

This was a missed opportunity

On 11 March 2019 Foden accompanied Child A to an appointment at the Sexual Assault Referral Centre (SARC) (appendix 1).

The Review was told that at around this time, Core SMT 1 had spoken to Foden advising him not to have 1:1 interaction with female pupils alone in his room, reminding him of professional boundaries and that he was making himself vulnerable to allegations.

On 4 April 2019 Foden accompanied Child A to a hospital gynaecological appointment without her parent's knowledge.

On 12 April 2019 Core SMT 1 contacted LA1 Head of Education 1 asking for an urgent '*in person*' meeting. At this meeting Core SMT 1 expressed his concern that Foden was spending time alone in his office with two vulnerable female pupils and could be making himself vulnerable and open to allegations. In the meeting the pupils were identified as Child A and Child C. Neither party made any written note of the meeting.

LA1 Head C&FS requested a meeting on a '*Mater Diogelu Brys- Cyfrinachol*' (*Urgent Safeguarding matter - Confidential*) via email to LA1 C&FS Senior Manager LADO.

On 15 April 2019 a meeting of four senior LA1 officers from LA1 Ed, LA1 C&FS and LA1 Legal departments was held to consider the information reported by Core SMT 1 to LA1 Head of Education 1. No formal minutes were made of this meeting however the Reviewers have seen transcripts of handwritten notes taken contemporaneously by two attendees. Core SMT 1 was not invited to the meeting to give further information. The meeting was deemed not to be a child protection meeting and was instead regarded as being for the consideration of a '*professional issue*'.

In the meeting the two vulnerable pupils were named as Child A and Child C, and several risk factors were identified including:

- The pupils being alone with Foden in his room for long periods
- A female pupil seen with her head on Foden's shoulder
- Foden holding one child by both hands
- Foden driving them, on their own, home in [his] car.
- The pupils having Foden's personal phone number
- That Core SMT 1 had spoken to Foden (over Easter) to tell him to '*back off*'
- That other staff were also concerned about these meetings

No note was made that one of the female pupils named, Child C, was the subject of two referrals relating to Foden in 2018 (one of which was made by the second pupil, Child A who was also named in the meeting). Neither pupil had been spoken with in 2018. The second pupil was also identified as being vulnerable. This would have been known to LA1 C&FS Senior Manager LADO, but no connection was made

between the two events. The meeting in 2018 had been attended by LA1 Senior Manager Ed2, Later Head of Education 2. There is no evidence to demonstrate that LA1 Head of Education 1 had been made aware of the content of the meeting held in 2018 or that the content was reviewed in the meeting in 2019.

Moreover, at this time Child A was subject to Child Protection Procedures in LA2. Had any new enquiries been made with LA2, the information that Foden was accompanying her to medical appointments would have come to light. Neither of the pupils were spoken to regarding these concerns and a decision was ultimately made not to proceed to Part 4 of the AWCPP 2008 on the basis that this was a '*professional*' rather than a safeguarding matter.

This was a missed opportunity

It appears to have been agreed that LA1 Head of Education 1 would speak to Foden to remind him about boundaries. There is no record of this conversation nor of Foden's response. However, on the balance of probabilities, it is likely that this conversation did take place, as when Foden became aware that it was Core SMT 1 who had raised the concern it was reported that Foden gave him the '*cold shoulder*' for a number of months.

On 1 May 2019 Foden accompanied Child A to a further hospital appointment. The clinician wrote to Health 3 on 16 May 2019 noting Foden in attendance '*again*' and also consulted with Health Safeguarding team.

A letter subsequently sent by the consultant in mid-May 2019 includes the consultant's understanding that Child A '*spends a lot of time with Foden in his room*' and noted that Child A was receiving counselling from Foden. The letter was sent to Child A via the school and was addressed to Foden, again without the parent's agreement or knowledge. The letter was found by Reviewers in an unlocked cabinet in what had been Foden's office in August 2024 – more than five years later.

Core SMT1 believes that in May 2019 he raised concerns about Foden's resumed behaviour as Child A was noted to be in Foden's office again, but no written record was kept of any meeting. In any event, the matter was left to '*resolve itself*' as it was understood that Child A was leaving the school at the end of the academic year; the assumption being that if Child A was not in school there would be no risk to Foden of false allegations. There is no evidence that the risk to Child A was considered.

This was a missed opportunity

On 6 June 2019 during the concluding Part 4 meeting held in LA2 regarding Child A's disclosure of abuse by a professional who had been employed in another statutory agency, Foden stated- unsolicited- that Child A had recently made an allegation against himself which he stated '*had no grounds*'. Foden explained that Child A '*had misinterpreted something*'. This statement was not challenged by the LADO from

LA2 who was chairing the meeting, and no subsequent inquiries were made or any attempt to cross-reference the statement with what was known about Foden by LA1 C&FS.

This was a missed opportunity

On 4 July 2019 an email from an LA2 Children's Service Practitioner to their senior manager detailed concerns raised by Child A's mother that Foden's behaviours were similar to those of the perpetrator (from another agency), referenced in the Part 4 meetings above. Mother noted that Child A spent most of her time, both in and out of school, with Foden who seemed overly kind and over familiar. Mum stated that there had been two occasions when Foden had not returned [Child A] home until after 9.30pm, as they had apparently been at a cake-making evening or open evening. Mum also stated that both [Child A] and Foden were *'almost too over familiar with each other, in regards to how they greet each other or making a joke out of their situation'*. Mum was not sure what to do or how to approach the matter.

The LA2 Children's Service Practitioner agreed to speak about it with their manager. A second LA2 Children's Service Practitioner had also met with Child A in Foden's presence, and they too had noted that the relationship was *'too informal'* and that Foden had taken Child A to medical appointments without either parent's knowledge. Both issues were discussed with the senior manager in LA2.

On 5 July 2019 information from the LA2 Children's Service Practitioner was shared by a Senior Manager in LA2 with LA1 C&FS Senior Manager LADO who confirmed that LA1 Head of Education 1 had previously spoken to Foden about boundaries in a similar context. The NWP referral relating to the July 2018 concern was then shared with LA2, noting that Child A was, in that case, the referrer and not the subject of the concern; Child A had raised the concern with the NWP School PLO who referred it to LA1 C&FS and NWP.

Following the referral from LA2 there was considerable email traffic relating to the case, the conclusion from LA1 C&FS Senior Manager LADO being that

'On its own, it does not appear to meet the threshold for Part 4, but the behaviour is one of boundary/over-reliance and leaves Foden open to criticism. I will be sending a message to LA1 Head of Education 1 to enquire where the issue is now'.

This letter refers to the concerns raised in April 2019 and the request for the LA1 Head of Education 1 to discuss the matter with Foden.

On 8 July 2019 NWP and LA1 C&FS held a Section 3 Strategy Discussion, the record states that NWP

'agreed that the information noted raised concerns re the reported behaviour of Foden in that he appears to be overly familiar with this pupil and his

involvement appears to go beyond what would be expected in his professional role'.

It was recorded that:

'There have been similar concerns noted previously in relation to another female pupil, whereby Foden was spending a great deal of time alone with this pupil, who was vulnerable, and that Foden maintained he was offering additional support in a pastoral role' and that 'there is no evidence of direct abuse towards the young person, no complaint has been made'.

The decision was made that there was insufficient [information] to warrant a formal strategy discussion or consideration under part 4 AWCPP 2008 (see appendix 1) since there was no specific allegation of abuse, and that the matter should be referred back to LA1 Ed for further steps to be taken with regard to professional boundaries and the suitability of such behaviour. The Review contends that there was no reference to the suitability criteria outlined in the AWCPP 2008 (see page 65 and 158).

There is no evidence that anyone spoke to Child A or her mother to clarify concerns specifically raised in this referral.

This was a missed opportunity

On 11 July 2019 LA2 requested a further discussion with LA1 Head of Education 1 who referred to having previously had a '*shot across the bows*' discussion with Foden. LA2 informed LA1 C&FS Senior Manager LADO that had Foden been a professional working in LA2, a meeting would have been convened under Part 4 of the AWCPP 2008.

On 18 July 2019 Child A's mother again expressed her concerns to the LA2 Children's Service Practitioner, and a further report was made and discussed between LA1 C&FS, Head of Education LA2, LA1 Head of Education 1, Head of Service for Children and Families, LA2. The decision of the meeting was that the LA2 Children's Service Practitioner would not meet Child A in school again which would mean Foden would not be present at future meetings. It was assumed at this time that Child A would not be returning to Ysgol Friars for 6th form and that the concern would resolve itself if she was not in school. There were also insurance concerns around LA2 Children's Service Practitioner attending meetings in school during the summer holiday, and arrangements were made to meet elsewhere. Although concerns had already been raised about the amount of time Foden spent with Child A outside of school, the possibility of him meeting her during the school holidays was not considered.

This was a missed opportunity

On 19 July 2019 the Service Manager in LA2 requested that the matter be discussed with NWP with a view to convening a Part 4 meeting. LA1 C&FS Senior Manager LADO initially refused this request but then was persuaded, reluctantly, 2 days later.

LA1 C&FS Senior Manager LADO to Service Manager in LA2:

I therefore consider that you are stating in your opinion that there is threshold here, and that you think we should have a Strategy Discussion with the Police. I will ask Tim Cyfeiriadau Plant (Children's Referrals Team) to do this next week. In my opinion, there have already been two discussions on issues that required consideration in a Strategy Discussion, but there is no new information here that is indicative of an allegation or new information of significance. Whilst happy to ask them to check this and the Police in terms of threshold, I note that the threshold on the previous issues has already been considered to avoid re-weighing already proven information. Obviously if there are further actions I will let you know.

You asked – do you need to refer it to [LA1 C&FS]? No. I will do it for you.

The reason I'm dealing with the issue in this way is that I'm not willing to be in a situation where another Council (LA2) suggests we talk to the Police, and we refuse that request. In a later situation of a review, our position would be impossible to defend especially as there is some disagreement between you and the Education Department as to what you think they should do about the issue here. I don't want to become a part of that.

Further meetings between LA2 Children's Service Practitioner and Child A were not held in the school. In a meeting in August 2019 Child A commented that she [Child A] 'gets away with loads of things no one else would' on account of her closeness to Foden.

The NSPCC had also been working in a supportive role with Child A since April 2019. In November 2019 supervision notes record that there had been some concern over Foden's professional boundaries in his interactions with Child A. These included answering Child A's emails out of school hours, Child A having Foden's work mobile number and on one occasion Child A having called an NSPCC practitioner from it.

On 6 February 2020 three months after having noted these previous concerns in supervision sessions, NSPCC made a child protection referral in relation to

'the concerns above and other concerns about the behaviour of Foden which indicated inappropriate professional boundaries.'

The referral was sent to both LA1 C&FS as the employing authority and LA2 as the child's home authority. However, the response from LA1 C&FS Senior Manager LADO was that

'this appeared to be a matter of professional boundaries rather than an allegation of abuse as such it did not fit into the definition of the AWCPP 2008 but with the anticipated launch of the 2020 procedures (see appendix 1), it may fit when that became operational'.

This was a missed opportunity

In September 2019 the Head of 6th Form at Ysgol Friars informed DSP 2 that they had been directed by Foden to admit Child A back into the school to study at A level, in contrast to what had been understood in July- that she wouldn't be returning to sixth form. DSP 2 was concerned about this and stated in a report seen by this Review that he subsequently spoke to LA1 Head of Education 1 expressing his concern. No written record was kept of this contact, and LA1 Head of Education 1 has no recollection of this.

On 28 February 2020 similar concerns regarding the relationship between Foden and Child A were referred to LA1 C&FS by the SARC (see appendix 1), noting an 'over familiarity' between them, referring to his age and there being 'a lot of banter'.

On 9 March 2020 the response from the LA1 C&FS Senior Manager LADO was that 'AWCPP, 2008 is still operational, this is the basis not to hold a Part-4'. It was noted by LA1 C&FS Senior Manager LADO that NSPCC had retracted their referral, which the NSPCC deny. On the same day LA1 C&FS Senior Manager LADO wrote to LA1 Head of Education 1 stating

'I want to note that I have previously raised the same matters about the same behaviour with regards to the same pupil'.

LA1 Head of Education 1 responded that he would seek HR advice and that the matter may need to be formalised. The Review is not aware of any records having been kept regarding any further advice being sought or provided. This is evidence that it was recognised that a **pattern** of inappropriate behaviour was continuing despite Foden having been spoken to.

This was a missed opportunity for review and intervention

Covid lockdown followed soon afterwards bringing with it, almost overnight, the biggest change in decades in the model of how education was delivered.

For most children and families Covid lockdown meant being educated at home with online support. However, children of key workers and vulnerable children were permitted to attend school in person. Foden was able to exploit this situation. Foden overrode the Government Covid Guidelines and chose which of the Covid Regulations he would uphold, and which he would not. For example, the child of one key worker was refused attendance at school despite the parent's concerted attempts to persuade the school that they were bound by a duty to accommodate this child under Government Covid guidelines.

In addition, in April and May 2020 during Covid, Core SMT 1 and 3 exchanged WhatsApp messages about Foden being alone in his office with vulnerable female

pupils, referring to Child A and C by their initials. Core SMT 1 and 3 commented on the risks Foden was taking in having the female pupils in his office and the risk of breaking the strict rules about who should be in school, social distancing and regarding travel arrangements, all of which Foden was openly flouting. Core SMT 1 refers back to already having spoken to LA1 Head of Education 1 about this and being reluctant to take it further again. It was considered that Foden was *'being silly'* by having vulnerable pupils in his room. In the messages, Core SMT 1 and 3 speculated that Foden must have made contact directly for the pupil to know that he was in school and that maybe Foden was in school specifically to meet that pupil. Core SMT 1 and 3 agree that they hope they are not right [in their speculations]. No referral to LA1 C&FS was made and indicates the deterrent effect of the previous negative experience of reporting their concerns. This earlier experience had resulted in the matter being discussed at a meeting of Senior LA1 Officers, but had not resulted in a formal Child Protection referral being made by any of those in attendance, nor a formal request to LA1 SMT 1 themselves to make a referral, notwithstanding Core SMT's statutory duty to refer safeguarding concerns. This is evidenced in the WhatsApp exchange among the Ysgol Friars Core SMT.

This was a missed opportunity

In May 2020 Child S complained that Foden was too physically close to her and had touched her face and hugged her. She spoke with two teachers about this, and they offered to speak to Foden. There is no record of whether the teachers followed this up.

On 7 October 2020 following the EWC Fitness to Practice investigation, Foden was found guilty of Professional Misconduct and was subject to a two-year reprimand. LA1 were informed, and it was later recommended that Foden be given professional advice. There is no evidence of this having happened.

On 18 May 2021, there was an incident where Foden was alleged to have used restrictive practice against a KS3 boy who was subsequently excluded. An informal complaint made by the parent framed a general sense that the child, despite having received good academic reports, had been repeatedly sanctioned for minor misdemeanours by male members of the SMT, amounting to victimisation. The issue that triggered the complaint related to an act of physical restraint by Foden, Core SMT 1 and DSP 2 over the male pupil's swearing and making unauthorised use of his phone. Staff had taunted the pupil to elicit a response which they could then capture on their personal mobile phone cameras. Foden was the main subject of the complaint. He had held the male pupil in a chokehold and later held him across his chest. Children's witness statements say Child M was saying he could not breathe (source Desktop Review, witness statements not seen by Reviewers). The initial complaint was ignored. When the parent followed this up, they were told to formalise their complaint, which they did. Eight weeks then passed without a response from the school. The school did not respond to requests by the parents to view CCTV nor see the Use of Reasonable Force 'HS11' form (see appendix 1). The parent did not feel that the nature of her complaint had been understood and was of the opinion that the restraint was not proportionate to the offence. Attempts by the parent to

escalate the complaint did not comply with the School Complaints Policy and resulted in them being dismissed as a vexatious complainant, a decision allegedly made in agreement with the Chair of Governors and Gov 2. The Review has not seen evidence of this. The matter was never referred to LA1 C&FS.

In June 2021 Foden was appointed to the Executive/ Strategic Headship of School 2. The Reviewers have seen evidence that LA1 Head of Education 1 consulted with four senior LA1 Officers, Chief Executive (who had been appointed to his role 2 weeks prior and had no knowledge of the history of allegations and concerns that had been made against him, nor of the guilty EWC finding), Head of Legal, Senior Manager Education Resources and the Secondary Education Officer, seeking their views on this appointment. It was reported to the Reviewers that the Secondary Lead at GwE (the former Regional School Improvement Service) had initially recommended Foden for the role. The Reviewers have seen an email which confirms that all four replied before LA1 Head of Education 1 responded to Foden concerning the appointment. The Reviewers have not been provided with evidence of, or access to, the 4 replies other than the confirmation email and note an apparent lack of due diligence and clear audit trail in this appointment process.

Foden presented his own terms for this role and submitted them to LA1. This arrangement meant that he was not accountable to the Governing Body of School 2, but to LA1 Head of Education 1, where normally a Headteacher is managed by the Chair of Governors. The Reviewers have seen no evidence of communication between the two Chairs of Governors, or between the Chairs and LA1 Head of Education 1 regarding the practicalities of Foden functioning across the two schools.

On 27 September 2021 Foden used restrictive practices on Child I, a young KS3 boy in Ysgol Friars. Child I, had a neurodevelopmental condition which caused him difficulty in social interaction and communication. Foden was aware of this. The parent did not make a complaint initially as they feared the permanent exclusion of Child I, but they did request sight of CCTV footage of the incident. Child I was put on a short suspension.

An initial decision was made by the school that the incident (which had been filmed by Core SMT 1, the DDSP, DSP 2 and another senior staff member on their mobile phones) was not a safeguarding matter and therefore was not reported to LA1 Ed as is required in incidents of restraint. However, over a month later when LA 1 Head of Education 1 and Secondary Schools' Education Officer (who had each been on leave) were shown the CCTV footage by the Schools Data Protection Officer, they instructed that an immediate referral should be made. At no point did any of the staff who witnessed the event, or senior officers to whom the matter was referred, take any action against Foden.

The referral raised concerns about the nature of the restraint which included pushing to chair, tipping to floor, and pressure to the chest. These were not recognised techniques yet none of the four senior staff who stood by and witnessed the incident intervened, some even choosing to film the incident on their phones. All Wales Safeguarding Procedures were followed, under Part 3, s.47 and Section 5 Professional Strategy Meeting.

On 13 October 2021 Child G, a pupil at School 2, disclosed that on 12 October 2021 Foden had asked to see her in his office. When she refused Foden collected her from her first lesson and took her to his office himself.

On 15 October 2021 two referrals were sent to LA1 C&FS in relation to Foden's interactions with Child G.

School 2 made a referral to LA1 C&FS following Child G's disclosure that because of Foden she felt scared and uncomfortable coming to school, that her friends had shown her articles on social media about Foden and encouraged her to see that what Foden was doing to her was incorrect. They added that a Teaching Assistant had also shared that they had overheard another pupil say that Child G would be complaining about Foden because he had touched her leg. Child G had shown Deputy Head DSP School 2 email messages from Foden sent late at night.

On the same day a professional from a Health Care agency made a separate but similar referral to LA1 C&FS. Child G had disclosed to this Health Care practitioner that she was fearful of being excluded. She also informed the practitioner that she had spoken to Deputy Head DSP School 2, who had downloaded some of the emails from her phone and had also made a referral.

On 15 October 2021 LA1 Head of Education 1 wrote to the Chair of Governors (School 1) advising him on possible action to take regarding Foden. It is not clear what prompted that letter.

On 19 October 2021 responsibility was delegated to LA1 Team Leader C&FS to chair a strategy meeting at which it was agreed that a s.47 investigation would be carried out in regard to Child G and that confirmation of the emails sent by Foden would be sought. It was noted that there was no evidence of an offence having been committed but that there were boundary issues and that in terms of holding Section 5 Professional Strategy Meeting it was unclear whether there was abuse of a child. During the s.47 investigation Child G shared that Foden frightened her and that she had asked the Deputy Head DSP School 2 to inform Foden that she did not want to see him.

Child G said that Foden had given her a hug and described that he had both his arms around her and that her own arms hung down beside her. Child G said that Foden gives her the creeps. Child G said the hug lasted around 5-10 minutes.

The outcome of the s.47 investigation was that the concerns were substantiated but that Child G was not judged to be at risk of significant harm. No reason was given for this determination. School 2 had not been involved in nor made aware of Child Protection processes following their referral. Child G was advised by their social worker that the emails were inappropriate and unprofessional and to speak to her family about them.

This was a missed opportunity

3 November 2021 LA1 C&FS held a Section 5 Professional Strategy Discussion in regard to Foden's behaviour with Child G, attended by representatives from Education, Social Services and NWP.

Neither the Chair of Governors of School 2, nor the Chair of Governors at Ysgol Friars were invited to nor engaged with in relation to this meeting. Had Governing Body Chairs been involved in discussions regarding these concerns, a fuller consideration may have been given to an assessment of whether there was a transferable risk to pupils at Ysgol Friars.

This was a missed opportunity

Part of the meeting related to Foden having sent emails to Child G late at night and to her private email address. It was noted in the meeting that professionals had only seen emails from Child G's phone but that *'if the two are corresponding outside of school hours, not sure how far we can take it, he's responding to her message he's not the one that's initiated the conversation, and if it's not going to go any further there's no need to gain access to the e-mails'*. Foden's behaviour was recognised as *'inappropriate'*. LA1 Senior Manager Ed2 was concerned about this particularly since Foden had only been at the school for about a month at that time. There was no attempt to pursue the matter further in order to gain access to Foden's emails despite this option having been considered; the Review has seen evidence that Foden continued to message Child G and was on occasion the initial instigator of contact.

This was a missed opportunity

11 November 2021 Foden hit local, regional and national headlines and caused considerable social media debate and discussion regarding his proposal to refuse school dinners to pupils whose parents were more than 2p in debt to the school. LA1 was forced to make a public apology to parents.

12 November 2021 a meeting was convened with LA1 Director of Social Services, LA1 Head of Education 1, LA1 Corporate Services and LA1 C&FS Senior Manager LADO to brief on an issue of unreasonable force being investigated by NWP and LA1 C&FS under Section 5. Video footage of the incident seemed to suggest that excessive force and unrecognised techniques were used by Foden in dealing with a situation involving Child I, who had diagnosed ALN. NWP were considering whether a crime had been committed and if not, whether there would be a need for consideration of whether this was acceptable professional behaviour. There is no reference to any risk assessments being agreed on or completed as a result of the Section 5 process.

It was agreed at the meeting on 12 November 2021 that a recommendation should be made for the Chair of Governors to suspend Foden from his role at Ysgol Friars as a neutral act pending investigation. It was acknowledged that ultimately this would

be a decision for the Chair of Governors. The Senior LA1 Officers (see above) at the meeting were unsure why this had not already been considered under part 7 of the Governor Handbook's suspension policy (the link to [LA1 Governor Handbook](#) has since been removed). Discussion between LA1 Head of Education 1, NWP and the Chair of Governors regarding Foden's suspension resulted in Foden being instructed to work from home rather than be suspended. The Chair of Governors at School 2 was not involved in this discussion and therefore could not assess transferable risk to pupils in School 2.

This was a missed opportunity

During the formal investigation there was extensive discussion around the detail of the degree of force used in the restraint. A heavy reliance was put on the NWP view that a criminal threshold had not been met, and on Foden's own statement (strongly supported by DSP 2) that the restraint was within government guidance and followed school policy. The Chair of Governors had not been involved in this process, although he should have been, had national guidance been followed³.

12 November 2021 a further incident triggered a referral, this time made by Child J in School 2, who alleged assault caused by the use of unreasonable force by Foden against him. Child J had been in the wrong classroom and had refused to move, remaining seated instead. Foden proceeded to lift Child J by his armpit and drag him from the chair and out of the room. This matter *'did not progress under Section 3 nor (was it deemed to) meet the threshold for a Section 5.'* A decision that no further action would be taken was based in part on Foden's assertion that he had followed guidance. LA1 C&FS Senior Manager LADO stated

'we understand he did this under the reasonable force procedures, and the practices viewed in the footage are general within schools under such circumstance'.

The Reviewers contend that this is not the case and is in breach of the fundamental principles of national guidance i.e. that restrictive practices should only be used as a last resort and should be proportional to the situation.

On 15 November 2021 Foden responded to the notification that he had been subject to a Section 5 Strategy Discussion, agreeing that he had given his email address to Child G but denying that he had ever hugged her. Foden also denied having sent emails to Child G late at night but attached a copy of an email that Child G had sent to him. Foden stated that he would not email Child G again. This was taken at face value and not monitored. The Review has seen evidence of considerable continuing email contact with Child G, sometimes late at night. It was noted that *'someone from Education'* would contact Foden to discuss some professional matters related to the referral and that Foden would have the opportunity to correct any *'misinterpretation'* of his actions.

³ <https://www.gov.wales/sites/default/files/publications/2018-03/safe-and-effective-intervention-use-of-reasonable-force-and-searching-for-weapons.pdf>

Neither the Chair of Governors of School 2, nor the Chair of Governors at Ysgol Friars were invited to the Section 5 Professional Strategy Discussion. Both Chairs could have been contacted in order to gain a better understanding of the concerns being raised and to aid in any assessment regarding whether there was a transferable risk to pupils at Ysgol Friars.

This was a missed opportunity

On 15 November 2021 Foden was instructed by the Chair of Governors at Ysgol Friars to work from home. This instruction applied to both Ysgol Friars and School 2 and was in response to the complaint about restraint. The restraint and safeguarding issues were not considered together.

This was a missed opportunity

On 18 November 2021 the BBC reported Foden's claims in the press that he had been '*thrown under the bus*' by LA1 who had instructed him to make the changes in School Dinner policy. Foden claimed that as a consequence he had received threats and abuse. It was reported to this Review that Foden had said to another professional that he had '*even been called a paedophile*' and when asked why that might be he had said he got '*called all sorts of names*'.

On 21 November 2021 Foden received an email from the Chair of Governors to state that the restrictions had been lifted and that he was free to return to Ysgol Friars from 22 November 2021. Foden did not return to school at that time and there is evidence of DSP 2 seeking advice from LA1 Ed1 about what he could relay to staff about Foden's continuing absence.

In January 2022 Foden returned to work at both schools.

On 10 January 2022, there was general email discussion between Foden and LA1 Head of Education 1, with reference made to communication with the LA1 referrals team and Designated Lead Officer for Safeguarding Children in Education about whether a [second] referral was necessary in relation to Child G, School 2. Foden reported to LA1 Head of Education 1 that he did not interpret advice received from this referrals team as indicating the need for a Section 5. There is an indication that the Designated Lead Officer for Safeguarding Children in Education suggested there **was** a need for a referral and that Foden should not be told. In the event Foden was subsequently informed about the concerns but no further information relating to process and outcome has been shared with the Reviewers, despite requests having been made.

On 11 January 2022 a Section 5 Professional Strategy Meeting on the Child I restraint case concluded that whilst a criminal threshold had not been met, Foden's reaction was disproportionate; physical intervention should be the ultimate last

resort. It was clear from the footage that there was minimal effort to defuse the situation with Foden leaning authoritatively over the pupil as he lay on the floor. The case was closed with no further action, but with recommendations made to the Chair of Governors and to Education, including to review the Restraint Policy in light of new guidance and to review the use of mobile phones by staff to record incidents. A part 3 S.47 meeting had found that the threshold of significant harm had not been met although Child I was very distressed.

On 14 January 2022 School 2 contacted LA1 Head of Education 1 having been told by Child G that Foden had been in contact with her again requesting to see her. The school requested feedback following their earlier referral on whether the outcome on their Child G concerns had concluded, specifically regarding further contact between Foden and Child G, since they had not been informed of any of the procedures followed nor conclusions reached⁴ since making the referral in October 2021. In response School 2 was advised by LA1 Team Leader C&FS, via LA1 Ed3, that there was nothing to stop Foden from meeting with Child G, that the earlier referral had concluded with no need for direct action, but that the Head of Year should be informed of meetings. This latter point was communicated verbally but there appears to be no written record of this advice. LA1 Team Leader C&FS also quoted from the Section 5 Professional Strategy Discussion notes that Child G [should be asked if she] is happy to meet with Foden (*Child's Voice*).

Deputy Head DSP School 2 told Reviewers that Child G was unhappy at the prospect of having to meet Foden which was the reason that the school safeguarding leads were concerned that Foden had contacted Child G again to ask to meet.

On 1 February 2022 Foden was reported, in email discussion between LA1 Head of Education 1, Gov 3, Senior School 2 staff and LA1 Senior Manager Ed2, to have used restrictive practices again, this time against a KS4 boy, Child H, who had exhibited challenging behaviour. The Reviewers have seen reference in emails to an HS11 form, evidence that this incident related to another restraint case, this being the fourth in as many months, where restrictive practices were used by Foden. Although ensuing discussion involved the Chair of Governors, NWP, LA1 Ed, LA1 C&FS, it was decided in discussion between the Education Department and the Chair of Governors that the matter would be dealt with by the school. This decision was made prior to any referral having been made to and assessed by LA1 C&FS. A referral was made on 2 February 2022. A Section 5 Strategy Discussion attended by Education, and NWP investigation concluded on 16 February where it was agreed that the threshold to proceed had not been met and there were no grounds for further steps to be taken under safeguarding procedures.

⁴ The Review has seen evidence that both LA1 Head of Ed1 and LA1 C&FS Senior Manager LADO had separately informed Chair of Governors School 1 of the outcome of the Child G (School 2) referral, and although reference is made to LA1 C&FS Senior Manager LADO having also sent a letter to Gov 3, School 2, evidence of such has not been shared with nor seen by the Review. The Review has seen no evidence of a response to an email request from LA1 C&FS Senior Manager LADO to LA1 Senior Manager Ed2, Later Head of Education 2 for Gov 3's address.

By September 2022 DSP 2 had noticed that there was

“a gradual increase in the number of female pupils that Foden would see for his so-called counselling / therapy sessions”

In October 2022 during a meeting attended by staff members, a social worker and a carer for Child F, concerns were raised about the frequency with which Child F was visiting Foden alone in his room. A staff member emailed Foden to advise him against having Child F in his room and that the carer had commented on this.

In November 2022 Foden allegedly sexually assaulted a female adult on school premises.

In January 2023 DSP 2 stated that concerns about Foden had been raised by other staff in Ysgol Friars and in particular by other members of the Core SMT. DSP 2 stated that at this time he had discussed these concerns with Foden including noting that the location of his office was isolated with 2 closed doors from the corridor. No referral was made to LA1 C&FS.

This was a missed opportunity

On 27th March 2023 Core SMT 1 & 3 and DSP 2 discussed their ongoing concerns about Foden. Social media messages seen by the Reviewers contain the following

*I popped in to see the head about [member of staff]. Had to ask to see him in your room as [Child D] was in there and they were by the window’
Now she’s got in his car, he’s taking her home I assume*

Response

*It’s ridiculous. Spends half his time in school now holding hands with little girls. Taking them home is dodgy at best, suspicious even. What gratification is he getting? What are they doing in private?
I think you, [DSP 2] and I need a meeting off site*

Response

I am glad you agree, I feel really worried

Core SMT 1 asked DSP 2 to refer the concerns to LA1 C&FS. No referral was made to LA1 C&FS.

This was a missed opportunity

30 March 2023 Core SMT 1, DSP 2 and Core SMT 3 noted in correspondence that pupils and staff were making comments about Foden. DSP 2 refers to being in the same situation that they had been in when Core SMT 1 made his previous report in April 2019. The Core SMT note that

'events at [another North Wales school] have shown that a CP concern can take out a whole SMT, so this is no longer about him, it will affect the careers of all of us if we fail to report a concern'.

On 30 March 2023 DSP 2 was asked by Core SMT 1 and Core SMT 3 to make a referral to LA1 C&FS but DSP 2 again declined to do so in favour of giving Foden another chance. Instead DSP 2 sent Foden an email alerting him to the Core SMT concerns and requesting that he changed his approach to seeing vulnerable female pupils alone in his room. No referral was made to LA1 C&FS.

This was a missed opportunity

The content of the email sent on 30 March 2023 from DSP 2 was framed in terms of perceived risk to Foden. It includes, amongst other similar suggestions, that Foden's office door should be part open, lights should be on, and blinds open to allow pupils to be visible, and that pupils should not be seen outside of school hours. The email concludes that

'Given your position in school, your experience and safeguarding role, there is a lot to digest. I understand the conflict in some of what I have suggested but my concern is that, given the number of highly vulnerable, less than trustworthy pupils you see you are placing yourself at risk by continuing to see pupils alone in the way that you are. I also wonder about pupils you are not seeing making up rumours about those girls seeing you. What if one pupil you're seeing feels pushed aside because someone else is being seen more frequently? Will they make something up because one girl gets cups of tea but they don't?'

The content of this email confirms that it was known to Core SMT 1 & 3 and DSP 2 that Foden saw female pupils alone in his office, for extended periods of time, with the door shut, lights off and blinds down, and that he should no longer do this. The reference to *'less than trustworthy pupil'* when referring to some of the most vulnerable children in the school underscores the culture which Foden had instilled in the school.

Foden responded agreeing to some of the suggestions but not to all. Core SMT also held an in-person meeting with Foden to discuss the situation.

On 31 March 2023 DSP 2 emailed Foden saying that he had been uncomfortable in the meeting [of the four of them] and stated:

'All I want to do is make sure that you're safe, that your reputation is secure and that we continue to work together to make this school even more successful.'

No referral was made to LA1 C&FS by any of Core SMT.

On 18 April 2023 a further social media message states

'He's had [Child D] in there this morning, there's another one in there now'

making it clear that Foden's behaviour had not changed as a result of either the visit or the email sent to him by Core SMT.

This was a missed opportunity and evidence of a failure of professional duty to report safeguarding concerns

On 28th April there are further social media exchanges between members of Core SMT. DSP 2 had again seen Child D in Foden's office, on this occasion after 5pm. He states

'when I walked in he was next to her stood against the wall facing the far wall. I spoke to him about her being there.....I worry that he just doesn't get it. He says they were just discussing art, but I don't get why they should be there until 5. It's a backward step'

Response

'.....he has seen a number of girls during lesson times this week as well, [Child B] several times, [Child D]..... and others. There is also a new [x] girl. I don't think much has changed tbh. He just doesn't seem to be able to let them go and pass them on to professionals'

Response from DSP 2

'.....I am worried that if there is an accusation we have more and more evidence that will harm him rather than defend him'

No referral was made to LA1 C&FS by any of Core SMT 1, DSP 2 or Core SMT 3.

This was a missed opportunity and evidence of a failure of professional duty to report safeguarding concerns

In June 2023 a member of staff at Ysgol Friars raised concerns internally with DSP 2 and Core SMT 3 regarding Foden's interactions with Child F.

On 28 June 2023 documents seen by the Reviewers evidence that DSP 2 had met with Foden socially and spoken to him again about the concerns, in particular in relation to Child D. DSP 2 had pointed out that Child D was very vulnerable and that Foden was spending too much time with her, conducting his *'therapy sessions'*. DSP 2 recalls that he had become increasingly aware that Child D was attending Foden's office on a regular basis. DSP 2 also stated that at this time he was aware

that Foden was seeing Child D outside school hours and was *'placing himself in unnecessary danger'*.

DSP 2 described Child D as

'probably the most vulnerable pupil in school' noting that at that time, her attendance 'was all over the place, she missed more than half her lessons due to absence'.

DSP 2 stated

'I was actually relieved when the academic year had come to an end and it was a weight off my mind, as Child D would not be frequenting Foden's office, at least through the summer holidays'.

Once again, an assumption was made that if Foden and a pupil were not in school there could be no interaction between them. This was despite DSP 2 having stated that he was aware at this time that Foden was seeing Child D outside of school hours.

This was a missed opportunity and evidence of a failure of professional duty to report safeguarding concerns

On the 3 July 2023 carer of Child F contacted Children's Services out of hours team in regard to their concerns about Foden. Records state:

'The carer reported having had a conversation with Child F, who had opened up about her feelings towards Foden'. The carer reported that Child F 'found Foden's attention comforting and thinks nobody else gets the same treatment. Foden makes her a cup of tea and sends a message to the canteen to prepare food for her. Child F had many google photos of Foden on her phone'.

It was noted by the carer that Child F was infatuated with Foden.

Discussion among the social work team resulted in a decision that the threshold for a Section 5 meeting was not met but that further information was required and that a meeting should be held between child's home authority Children's Services and Ysgol Friars.

This was a missed opportunity

On 7 July 2023 a meeting re Child F was held in Ysgol Friars with her social worker and school staff present. It was reported that Child F was frequently going to Foden's room and often missing lessons. The social worker arranged to meet with Child F

separately. The social worker was told that staff had spoken to Foden previously about not seeing Child F alone.

The social worker met with Child F in the school and Child F disclosed that she was still going to see Foden in his office. The social worker recorded that following the meeting in the school, Child F contacted her at the weekend and confirmed that she had never stopped meeting Foden. Child F told the social worker that Foden made her feel special, that he said she was '*important to him*' and that they had '*things in common*'. Child F said that she got special treatment. Foden was a good listener and had time for her. The social worker then met with Child F again and she disclosed that Foden had hugged her, and she found this uncomfortable. Child F also stated that she had not given permission for the hug.

On 24 July 2023 the social worker made a referral to LA1 C&FS containing the information Child F had disclosed and noted in the referral that Foden had previously been asked not to have unsupervised time with Child F due to concerns around the professional relationship.

By this time the school summer holidays had started. Emails between LA1 CF&S and the child's home authority continued to be exchanged throughout this period. and ultimately, senior managers also became involved.

On 25 July 2023 LA1 C&FS Senior Manager LADO, wrote a response to the social worker requesting clarification of the content of the referral. This was to be forwarded to her but was not sent until 2 August 2023.

On 8 August 2023 the referral was updated by the social worker as requested by LA1 C&FS. LA1 deny having received it at this time. In ongoing correspondence between the two authority's Children's Services, on and following 18 August, the need for a s.47 investigation/ Section 3/ 5 Strategy Discussion was raised re Position of Trust involving Child F.

Email exchanges between these two authorities continued throughout the summer holidays- the apparent assumption being that as it was the holidays, the child would be safe.

On 23 August, LA1 C&FS Senior Manager LADO responded to the other Authority, explaining

'.... if [they] called a Section 5 Meeting and was unhappy about the [level of clarity in the referral] information, he'd call in the Team Manager from that authority as well and wanted to avoid cross Authority tension if possible.'

On 5 September 2023 nine weeks after original concerns were referred and LA1 C&FS were first notified of the concerns relating to Child F, Foden's interactions with Child F were still under discussion and no decision had been made about whether a Section 5 Professional Strategy Meeting should be held.

Child F's safety over the summer had not been considered. It subsequently became apparent that Foden had continued to abuse Child D throughout the summer holiday.

On 6 September 2023 at the start of the school day Child D disclosed that she had been '*in a romantic relationship*' with Foden and showed WhatsApp messages and photos to a member of the pastoral team and DDSP. The messages were of a sexual nature and indicated that a crime had probably been committed. Messages on Child D's phone were identified as being from Foden's number. At around 10.45 DDSP phoned LA1 C&FS and described the content of the messages. DDSP was asked to send in all relevant information without delay. Section 3 and 5 Strategy Discussions and a joint s.47 were subsequently triggered to coordinate matters and agree a way forward. These meetings began only after digital evidence had been received by LA1 C&FS at 11:55.

Although the Review has not seen evidence of this, it is understood that LA1 Head of Ed1 was informed by phone of the disclosure by LA1 SMT 1 before C&FS were informed.

The Review has been informed by the DDSP and Child D, that whilst the referral was being made Child D was hidden in a cupboard in the school. Foden remained on the premises and tried to gain access to her. At 11.53 NWP CRU were alerted by LA1 C&FS that the referral had been received. At 12.21 the DDSP also contacted NWP. At approximately 2.30pm Foden was arrested.

On 8 September 2023 a Section 5 Professional Strategy Meeting was held to '*bring matters into process*'. The Chair of Governors did not attend the meeting as he considered that there was a conflict in this matter between his role as Chair of Governors and his professional position in NWP. DSP 2 was nominated by the Chair of Governors to attend the Section 5 meeting in his place. This was not an appropriate substitution as DSP 2 had no authority to make decisions regarding Foden, and the request should have been that Gov 2 or another member of the Governing Body should attend. However, the Chair of Governors decision was accepted by the Chair of the meeting LA1 C&FS Senior Manager LADO and DSP 2 was in attendance.

In the Section 5 meeting on 8 September 2023 the Chair made no reference to, or held any discussion about any of the previous Section 5 Professional Strategy Meetings that had been held about Foden in relation to concerns that had been raised regarding either his interactions with vulnerable female pupils or concerns about Foden's use of force with male pupils. The outstanding request (ongoing since early July 2023) that a Section 5 Professional Strategy Meeting should be held in regard to Foden's interactions with Child F was not referred to. Several officers attending the meeting on 8 September had attended at least some of these Section 5 meetings and would therefore have known the context of the meetings and that Foden's conduct had been a matter of concern for a number of years.

On 10 September 2023 (a Sunday), Core SMT 3 contacted LA1 Head of Education 1 by telephone. Core SMT 3 disclosed that Core SMT 1, 3 and DSP 2 had discussed their shared concerns about Foden at the end of the Spring Term (see March 2023 above). Although not disclosed by SMT 3 to LA1 Head of Education 1 in this conversation, the Review has seen evidence that Core SMT had been discussing similar concerns amongst themselves throughout the period since 2019 when SMT 1 had initially contacted LA1 Head of Education1 with concerns about Foden, without seeking advice or making a referral.

As a result of this conversation LA 1 Head of Education 1 sent an urgent WhatsApp message to the Chief Executive.

WhatsApp:

LA1 Head of Education 1 to LA 1 Chief Executive

10.9.23, 15:53:

'Hi XX X I've just received a phone call from Core SMT 3 assoc. head Friars. A call that raises significant concern for me about the culture, this incident and the behaviour of the SMT. Welcome to phone me if you'd like to know more before tomorrow'.

LA1 Chief Executive responded

'[you] need to tell them that any information about the case needs to be shared with the referrals team or Police'

The CPR team have not been able to evidence whether LA 1 Head of Education 1 himself called for an urgent meeting the next day (11th September) or whether there was already a meeting of senior officers arranged for that day. The Stat Dir SS was present and took notes but there are not formal minutes of the meeting.

The meeting convened on 11 September 2023 was attended by LA1 Stat Dir SS, LA1 Chief Executive, LA1 C&FS Senior Manager LADO, LA1 Legal, LA1 Head C&FS, LA1 Head of Education 1, LA1 Senior Manager Ed2 (later LA1 Head of Education 2). Four of these Officers had been at the meeting convened in 2019 to discuss SMT 1's concerns about Foden.

At this meeting LA1 Head of Education 1 was able to report on the content of the call he had received from Core SMT 3 the day before, including the detail of the disclosure that Core SMT 1, 3 and DSP 2 had shared amongst themselves their serious concerns about Foden's repeated meetings with vulnerable female pupils alone in his office. The meeting was informed that DSP 2, rather than notify LA1 of these concerns as requested by SMT 1 and 3, had emailed Foden

'warning him that there could be a malicious allegation on its way and that he'd need to be ready for that'

and that in addition

'[Core SMT 1, 3 and DSP 2] decided to meet with Foden to warn him, without contacting the Council, Governors nor anyone else'.

Officers at the meeting commented that safeguarding procedures in regard to reporting safeguarding concerns to LA1 had not been followed by Core SMT 1, 3 and DSP 2 but did not recognise that they had also specifically breached Section 130 of the [Social Services and Well-being \(Wales\) Act 2014](#) which requires 'relevant

partners' for example teachers to inform the local authority if they have reasonable cause to suspect a child is at risk of harm. This includes cases of abuse, neglect, or other forms of harm.

Nor did officers refer to *Keeping Learners Safe 2022* which makes it clear that schools and colleges must not carry out their own investigations. *Keeping Learners Safe 2022* sets out that if the concern is about a member of staff, schools and colleges must report it to the local authority or the police. This in turn was a breach by Core SMT 1, 3 and DSP 2 of the Code of Professional Conduct and Practice for Registrants with the Education Workforce Council (EWC), the teacher's regulatory body.

Whilst it was noted in the meeting that

'It would therefore be appropriate that none of these three internals become acting head',

those present at the meeting on 11 September 2023 did not discuss that the failure of any or all of Core SMT 1, 3 and DSP 2 (together or severally) to report their significant safeguarding concerns about Foden to LA1C&FS had left pupils at risk of abuse by Foden and furthermore called their suitability to work with children into question.

The failure of all three to report the concerns should have been a trigger to call for consideration of each of those individual's suitability to work with children under a Section 5 Professional Strategy Meeting, particularly given that the three were the senior leaders of the school and that one of them was actually the Designated Person for Safeguarding. Holding such meetings could have resulted in referrals to the EWC for breach of professional standards and failure to safeguard children with consequent disciplinary action.

The Reviewers have seen evidence that subsequent to the 11 September meeting LA1 Chief Executive and LA1 Stat Dir SS did seek reassurance from NWP Gold Command that the Core SMT were not criminally involved with Foden or persons of interest to the criminal investigation, and reassurance was given by NWP that if criminal activity was suspected or found, Section 5 procedures would be invoked.

A recurrent theme of this Review has been the absence of consideration of 'suitability to work with children' both when making decisions about invoking the Section 5 process, and in any subsequent Section 5 Professionals Strategy Meetings.

Wales Safeguarding Procedures suggests that the procedures should be invoked where an individual has

- Contravened or continued to contravene their agency's Safeguarding Policy and Procedures

And goes on to advise that professionals should

- Consider whether the adult's suitability to continue working with children or adults at risk in his or her current position has been called into question

- Consider whether there are disciplinary issues to be followed up

On 14 September 2023 there was an extraordinary meeting of the Governing Body with senior officers from LA1. LA1 Stat Dir SS and LA1 Head of Education 1 were in attendance.

In spite of the recognition by senior officials at LA1 that none of Core SMT should become acting head of Ysgol Friars, and the Review understands that the Governing Body were advised of this, Core SMT 1, 3 and DSP 2 all remained in senior leadership positions, including in the DSP role at Ysgol Friars for a further academic year.

The Review has not seen evidence of how the decision for Core SMT including the DSP to stay in place was reached. This left pupils at Ysgol Friars vulnerable.

Practice and organisational learning

Identify each individual learning point arising in this case (including highlighting effective practice) accompanied by a brief outline of the relevant circumstances

Themes and Recommendations

Foden's sexual abuse of female pupils

This Review was commissioned in response to Foden's sexual offending against female pupils at the school where he had been Headteacher for a number of decades. During the course of the review, it became clear that Foden was a sophisticated and opportunistic predator who had developed his strategy for sexual offending undetected over a long period of time. Foden had cultivated and refined an environment where, by normalising his behaviours and by abusing his power and position of trust, he was able to make himself inviolable to challenge and thus able to offend in plain sight.

Concerns had been openly discussed by Core SMT as early as March 2019 and by January 2022 DSP 2 noted that Foden was having increasingly frequent contact with vulnerable female pupils in his office and that staff and pupils were commenting on this. In March 2023 concerns were again discussed amongst Core SMT, and Foden was warned about his behaviour. That notwithstanding, in June 2023 Foden was known to be seeing '*the most vulnerable girl in the school*' both in his office and out of school but no intervention was made.

This was a missed opportunity

Foden's physical abuse of male pupils

However, whilst by no means minimising the extent, duration and impact of Foden's sexual abuse of vulnerable female pupils, a second theme to emerge from this Review is the evidence of considerable and repeated abuse of power and position of trust in Foden's physical interventions with young male pupils. Of particular concern was Foden's repeated and public use of restrictive processes and unorthodox methods of restraint when '*managing*' the behaviour of male pupils at the school. As with his sexual offending, Foden's actions in this respect were normalised and carried out in plain sight.

The sexual and physical abuse of children are not unrelated and from what is known of each of them, may each have had both sexual and sadistic motivation. Each situation involved Foden's abuse of power and position of trust in relation to children in conjunction with the grooming and manipulation of other adults- both professionals and family- who may otherwise have protected the children. Foden normalised his

actions and thus persuaded those around him to believe that his interventions in both providing 1:1 '*counselling*' for female pupils and '*managing the behaviour*' of male pupils were reasonable, proportionate and warranted. Foden's actions have doubtless resulted in long-term impact on those who were subjected to his behaviour and became the cultural norm for some of his staff.

The Recommendations put forward in this Review are inter-dependent and cannot be taken piecemeal. A strategic and integrated response from all agencies which work with children is required to ensure, as far as is possible, that this type of abuse is not experienced in the future.

Theme 1: Impact of Status, Reputation and Culture

For almost three decades Foden was the Headteacher of the largest most high-profile school in LA1. During this time, Foden had deliberately and strategically distanced himself and Ysgol Friars from Local Authority oversight by developing his own Standard Operating Procedures. Foden also adapted the Local authority exemplar policies for safeguarding to suit himself and contracted out HR arrangements to a commercial provider. Foden also deliberately developed a safeguarding system staffed by inexperienced and weak staff who felt unable or ill-equipped to challenge him.

In addition to being a Headteacher, Foden also had status locally, regionally and nationally, courting local and national media. He was the BBC's '*go to*' person for comment on controversial issues relating to education. Foden also involved himself in matters of national policy, speaking at the Senedd on education matters.

Foden actively familiarised himself with the operating systems of statutory agencies and safeguarding support systems and was blatant in his thirst for information which he could then use to thwart anyone who sought to challenge him. For example, he attended the SARC (see appendix 1) to learn of its work and sought information on the operation of the Crown Prosecution Service (CPS). In addition, Foden was perceived to have an almost encyclopaedic knowledge of statutory guidance in the fields of education, unions and employment law. Foden was also reported to have been happy to fabricate or bluff in a forceful and '*knowledgeable way*' where he felt the need, giving the impression of authenticity. He was described as broadcasting information '*as if he was the messiah*'.

Foden was unafraid of challenge or scrutiny.

Culture

Foden had a reputation as a disciplinarian who intimidated and bullied pupils, staff and parents, and who would target and pursue individuals if they crossed him. Foden cultivated a climate of fear as one of his manipulation strategies; he was both ruthless and vindictive. This fear was so pervasive that contributors to this Review expressed

their concern that Foden would pursue them when released from prison- if not sooner- either directly or through a perceived network of allies/ supporters. Contributors continued to be afraid for their jobs, their mental health and general wellbeing.

Foden encouraged a culture of misogyny amongst staff, treating male and female staff differently. He openly engaged in conversations which included explicit sexual content, often at the expense of female staff, and he made comments of a sexual nature to both individuals and groups at work and in social events. Foden caused discord in his wider SMT by playing members off against each other, again often at the expense of his female staff.

The Reviewers have seen evidence that this culture of sexual conversation and innuendo was so embedded and normalised that even when Core SMT 1 contacted DSP 2 on 6 September 2023 to inform him that Foden had been arrested, DSP 2 recalled that

'I initially thought that it was some sort of inappropriate joke'.

Women were not given the same opportunities as men, and Foden often used his power over contractual arrangements to intimidate or control his staff, for example only offering employees short term contracts with the implied or explicit threat that they may not be renewed and changing employee responsibilities within roles without consultation or agreement.

Foden advocated a distrust of children, and actively promoted the belief that children are dishonest and would likely make false allegations. Foden simultaneously assured staff that he would *'have their back'* if an allegation was made against them by a child, and he circulated messages to staff that named and deliberately undermined the credibility of children. This included deliberately and openly naming those children who he was later found to have abused, and who he was seeing on a 1:1 basis as particularly untrustworthy. Staff were not encouraged to believe children, and parents who raised concerns or complaints about the school or the way in which their children were being handled were given short shrift if they tried to pursue this line (see Theme 5: Governance and Complaints).

Despite this and having been found guilty of professional misconduct by the EWC in Autumn of 2020 which led to a two-year reprimand, there is little evidence of anyone in LA1 or on the Governing Body having management oversight or monitoring his behaviour or of many of the actions and recommendations included in the EWC outcome being implemented.

On 21 June 2022 only nine months after the EWC finding of professional misconduct, Foden was appointed as Executive/Strategic Head of School 2. Foden drafted his own job description/ contract for this executive role, and rather than being accountable to School 2's Governing Body was to be managed by LA1 Head of Education 1. Foden exploited the opportunity of working across two sites to disguise his whereabouts; no one had access to his diary or knew when he would next be at either school, although one of his victims was able to share that she knew of Foden's whereabouts with school staff. The fact that a pupil had this knowledge of Foden's whereabouts did not appear to raise concerns.

This was a missed opportunity

Foden was a strategic sex offender who was also opportunistic and determined. He acted in *plain sight*. Foden created an environment which enabled him to develop systems and create opportunities to access any child almost at will and then manipulated those systems to normalise his 1:1 access to vulnerable female pupils. Whilst there is evidence that Foden's offending pre-dated the death of DSP 1 in 2018, DSP 1's passing opened up an opportunity for Foden to step into a position where he could identify and access the most vulnerable children and abuse them under the guise of offering pastoral support.

Foden played on his personal loss of DSP1 (who he had described as being his '*best friend*') at a time when many other staff and pupils were also grieving, thus gaining sympathy of both his peers and victims. Foden presented as being a man in deep mourning who was stepping in when the school community was in a state of shock, and Foden's public display of grief for the loss of his friend certainly added credence to his taking on the pastoral role.

When anybody reported a concern about Foden's contact with vulnerable female pupils both he and the professionals working with him cited offering counselling support as the *prima facie* reason for his having 1:1 contact with pupils. When, in due course, Foden's behaviour was considered in strategy discussions or the Section 5 process, other professionals unquestioningly fell into the trap of believing that Foden was supporting and counselling pupils. No one stood back to question whether Foden was appropriately trained in this field, whether it was appropriate for the headteacher of a school to be carrying out this work, or why the '*counselling*' was only offered to female pupils.

For the remainder of 2018 until the appointment of DSP 2 in early 2019 the school had no trained safeguarding lead or DSP. The void was filled by the office manager acting as a deputy DSP under the supervision of Foden. The office manager was not a trained professional and was inexperienced in this context, having only had a role supporting DSP 1 as chaperone; she received no formal safeguarding training until December 2018.

At the beginning of the 2018-2019 academic year Foden oversaw a restructuring of the pastoral system in Ysgol Friars, replacing trained education staff who had been Heads of Year with inexperienced teaching assistants and administrative staff. This was presented to the staff body as a plan created by DSP1 (who the Reviewers contend had also been appointed by Foden for his lack of experience and potential malleability) and now brought to fruition. The new system gave Foden further opportunity to control the safeguarding process and gave him access to information which enabled him to identify pupils at risk. During this time Foden was also able to appoint an inadequately trained and inexperienced Deputy Head to replace DSP1, to lead on pastoral work and hold the role of DSP 2. DSP 2 was not able to access a suitable level of safeguarding training until well into his first term at Ysgol Friars and had joined with little relevant experience of this area of work.

By 2019 Foden was known to be having frequent meetings with vulnerable female pupils alone in his office and had normalised this behaviour, often emailing members of staff to ask them to release certain female pupils from their lessons. Foden openly directed staff to misuse the School Information Management System (SIMS) by requesting that staff mark pupils as present in their lessons when in fact the pupils were with Foden in his office. By taking the approach of asking for the same pupils to be allowed to be absent from a variety of lessons and subjects, Foden was able to conceal any pattern of regular or frequent absence of any particular pupil from classroom teachers and departmental heads.

In April 2019 Core SMT 1 raised concern with LA1 Head of Education 1 about the frequency of Foden's lone meetings with vulnerable female pupils. When Foden was informed of these discussions he responded in two ways; the first was to cold shoulder Core SMT 1, his Deputy Head, for an extended period of time, and the second was to actively announce, for example in morning staff briefings, that he would be supporting named female pupil 'X' in his office that day. In this way Foden was able to continue to operate in plain sight and without challenge.

This was not the only example of Foden flouting his own rules at the school. During Covid lockdowns in 2020 Foden was able to determine who had access to the school and invited victims to meet him alone there, which meant simultaneously breaching Covid regulations and school procedures. This was remarked on via WhatsApp exchanges amongst the Core SMT, but they did not challenge him or seek advice having been met with a very negative response on previous occasions.

Foden also actively managed the school Governing Body (discussed in detail under Theme 5: Governance and Complaints). The Review has seen evidence that Foden drafted written responses in regard to procedures brought against him for the Chair of Governors to submit under his own name to LA1 Head of Education 1. In these letters Foden, via the Chair of Governors, challenged the application of policy and procedure. For example, based on advice from Foden and DSP 2, the Chair of Governors, when advised by senior officers LA1 Director C&FS, LA1 Head of Education 1, LA1 Head C&FS, LA1 Former Corp Dir and LA1 Legal to suspend Foden as a neutral act, refused to do so, instructing Foden instead to work from home. The Review has seen evidence that these senior staff believed that the school policy stated that NWP must have oversight of and agree to matters relating to the Headteacher's suspension. The Review has not been able to evidence that the policy was in fact changed in this regard, however, the Review contends that, on the balance of probability, Foden had fabricated and promoted this falsehood to mislead other professionals at a time when he was facing not only two allegations of using unreasonable force in restraining young male pupils (one instance in each of the schools in which he was Headteacher) and a third allegation relating to his interactions with Child G, a female pupil, described later in this Review.

Once appointed to the Executive/Strategic Headship of School 2 Foden moved swiftly to use his new position to identify and target a vulnerable female pupil. Using the same *modus operandi* as he had used in Ysgol Friars, i.e. under the guise of supporting a pupil, Foden isolated Child G, insisted that she came to his office alone and frequently messaged her at her private email address, even late at night. This was

noted by school staff and reported to LA1 C&FS. Child G had reported her concerns to staff, asking them to intervene but was told they felt unable to as *'he was [their] boss'*.

At this time Foden also came to the attention of LA1 C&FS for his physical interventions with pupils and strict application of disciplinary procedures in both schools. Ysgol Friars had the highest level of permanent exclusions in LA1 and relatively low levels of short-term exclusions. He operated a *'three strikes and you're out'* Policy which was endorsed and supported by the Governors, staff and by some parents.

Professionals were also unable to objectify Foden's conduct when he acted under the guise of offering personal and pastoral support to pupils. In this way Foden was able to infiltrate child safeguarding organisations and systems, learn how they operated and further isolate his female victims from other supportive adults.

Whilst identifying and targeting vulnerable female pupils for sexual abuse, Foden was subject to complaints and referrals in relation to his application of restrictive practice and use of inappropriate force against male pupils. Pupils and their parents were afraid of swift action and reprisals should they make a complaint, and few complaints resulted in action being taken by LA1. Fear of exclusion and other consequences impacted on family tolerance of this behaviour.

One member of staff commented to this Review that Foden would corner and taunt male pupils until they reacted, at which point he would physically intervene and/or trigger a formal reprimand. School staff and parents have alleged the targeted victimisation of some pupils, who by this means then faced an accelerated accumulation of negative behaviour points until an exclusion threshold was triggered. A staff member observed to the Reviewers that *'within a day a child's secondary education could be over'*.

Foden's perceived standing in the community combined with his reputation as a man who would bully staff, pupils and parents made adults afraid to challenge him and unable to view his actions objectively. At the same time Foden advertised and exploited his power over staff working in the school and living in the community by threatening the loss of jobs or keeping staff on short contracts. Pupils and parents faced the threat of exclusion and removal from the school roll. Foden refused to engage with complainants who did not comply with his rules. Some of these actions had been legitimised by their inclusion in the school policy. In other cases, rules in the policy were flouted.

A stark conclusion of this Review was that professional adults working in the school did not stop to consider why a man wielding such status and power in his employment as leader of a school with 1400 pupils on roll would dedicate the time or have the inclination to offer personal and pastoral support to some of the most vulnerable female pupils, nor to consider the appropriateness of his doing so as a male member of staff, untrained in this area.

Professionals had become used to and normalised Foden seeing vulnerable female pupils on site and out of school, but despite this still failed to consider that his behaviour would continue though the school holidays, instead believing contact would

cease during these times. The Reviewers have seen evidence that in the cases of Child A, D and F decisions not to act were made on the mistaken assumption that Foden would not meet with them during school holidays. In one case it was even suggested that Foden might amend his behaviour by the time the new term began and therefore not present a risk going forward. The Reviewers are aware that the abuse did not stop during school holidays.

This was a missed opportunity

The fact that Foden only saw vulnerable female pupils in his room and did not offer the same support to male pupils had also become normalised and remained unremarked upon at the time, although DSP 2 did note it retrospectively.

Each of these examples demonstrate the skill with which Foden was able to groom not only his victims but also the wider community in which he worked.

Had professionals from all agencies coming into contact with Foden and the school had training regarding the *modus operandi* of sex offenders it is likely that they would have recognised and responded to indicators of grooming and coercive control in Foden's behaviours. As it was, Foden skilfully manipulated the community into compliance with his policies and misuse of power.

Theme 2: Reporting Concerns, Managing Allegations, Making Referrals - systems and processes

Reviewers have seen evidence that over the period covered by the Child Practice Review a number of concerns were reported to LA1 C&FS regarding Foden's behaviour and conduct. These concerns related to his persistent 1:1 contact and interaction with vulnerable female pupils and were received from professionals across a number of agencies including Ysgol Friars, School 2, LA2 social workers, LA3 social workers, LA1 social workers, the SARC, NSPCC, Health Care Agency, members of SMT, hostel manager, a foster carer via their social worker, a pupil and the families/carers of vulnerable pupils. Some of the referrals were about the same named female pupils whilst the referrals relating to restraint were exclusively about male pupils.

The procedures for managing Safeguarding Allegations/Concerns about Practitioners and Those in Positions of Trust are currently set out in Section 5 of the *Welsh Safeguarding Procedures*⁵ and were previously managed under *Part 4* of the *All-Wales Child Protection Procedures 2008*.

⁵ <https://www.safeguarding.wales/en/>

Where a concern or allegation about an adult working with children is disclosed or reported the case is usually managed and led by the Local Authority in which the adult is employed. The Section 5 Guidance clearly states that:

'Every Local Authority has a duty to manage allegations and concerns about those whose work with children, either in a paid or voluntary capacity, and who brings them into contact (directly or indirectly) with children or adults at risk, and must have a designated officer who is an identified senior manager responsible and accountable for the management and monitoring of allegations/concerns against practitioners and those in positions of trust. Each Local Authority is mandated to have a social work professional dedicated to this role - known as the Local Authority Designated Officer (LADO).'

The Section 5 guidance continues with the explanation of the application of the procedures noting that they do not apply only where significant harm is suspected but also cover consideration of '**suitability**' to work with children.

The procedures set this out as below, giving examples of behaviour which might be considered under that heading;

*'Managing cases under these procedures applies to a wider range of allegations than those in which there is reasonable cause to believe a child or adult at risk is suffering, or is likely to suffer harm. It also applies to concerns that might indicate that a person is **unsuitable to continue to work with children or adults at risk in their present position or in any capacity** [reviewer's emphasis]. It should be used in all cases in which it is alleged that a person who works with children or adults at risk has:*

- Behaved in a way that has harmed or may have harmed a child or adult at risk*
- May have committed a criminal offence against a child or adult at risk or that has a direct impact on the child or adult at risk*
- Behaved towards a child, children or adults at risk in a way that indicates they are unsuitable to work with both children and adults'*

The Guidance then continues, giving examples of behaviours which might be considered concerning noting that:

'It can be difficult to determine what may fall into the category of 'unsuitable to work with children or adults at risk'. The employer should consider whether the subject of the allegation or concern has:

- Been the subject of criminal procedures that indicate a risk of harm to a child or adult at risk*
- Caused harm or possible harm to a child or adult at risk and there is a risk in the working, volunteering, or caring environment*
- Contravened or continued to contravene their agency's Safeguarding Policy and Procedures*
- **Failed to understand or comply with the need for clear personal and professional boundaries in the workplace** [Reviewers emphasis]*

- *Behaved in a way in their personal life which could put children and adults at risk of harm*
- *Behaved in a way that undermined the trust placed in them by virtue of their position*
- *Children who are subject to Child Protection Procedures*
- *Has caring responsibilities for an adult who is subject to Adult Protection Procedures*

The Guidance further states:

‘that In cases where there is an identifiable child, young person or adult at risk who may be raising the concern or has been subjected to possible abuse then a proportionate assessment will be carried out by social services in accordance with the Social Services and Well-being (Wales) Act 2014⁶.’

The Guidance notes specifically that:

*‘In cases where there is an identifiable child or adult at risk who has been subject to abuse or neglect, the Wales Safeguarding Procedures will be implemented and followed alongside the process outlined in these procedures. **If there is no identifiable child or adult at risk and the professional meets the criteria identified above, then these procedures will still be invoked.**’*
[Reviewers emphasis]

In every case where there are concerns or allegations about an adult working with child/ children or in a position of trust, consideration must be given to the level of risk the child may be facing. Therefore, legal duty would be to undertake a s.47 investigation in order to assess risk and give the child/children a voice where the LA has reasonable cause to suspect a child is at risk of significant harm. The s.47 investigation should be coordinated with the Part 5 Professional Strategy Meetings, to ensure that all relevant information is shared in the appropriate forum. Where issues are cross-border, the home authority of the child must always be invited to contribute to the Professional Strategy Meetings and where a child is subject to a s.47 investigation this would be carried out by the child’s Home Authority.

In this complex case Foden was head of a school whose catchment area is primarily Bangor and its environs and wider areas of the County. However, Ysgol Friars also had pupils on roll whose homes were in one of the neighbouring counties in North Wales, and some of those pupils became victims/survivors of Foden’s abuse. The neighbouring counties have separate safeguarding arrangements that sit within their children’s Social Care and Education Departments. Whilst LA1 is by default the prime Local Authority under consideration, for the purposes of this Review, the neighbouring counties are designated as Local Authority 2 (LA2) and Local Authority 3 (LA3).

A further complicating factor was that each of the children impacted had, in addition, engaged to a greater or lesser degree with a range of local and regional services such as Health Care agencies, health services (all tiers), the SARC, NWP, education welfare, social work, family support teams and Child Looked After (CLA) services (this

⁶ All-Wales Child Protection Procedures 2008

is not an exhaustive list) working to different geographical borders. This is not an unusual situation for many schools, but it does mean that cross-border communications must be clear and effective and demonstrates that the involvement of all agencies engaging with a child, children and families where there is a risk of harm is of vital importance to safeguarding children. Cross-border differences in the application of safeguarding thresholds and information sharing protocols cannot stand in the way of keeping children safe. The North Wales Protocol for the Resolution of Professional Dispute Policy was not activated in this case where such differences had arisen.

The Section 5 Guidance is clear about the procedures the local authority safeguarding team must use following notification of a concern or allegation about an adult working with children in their area, and also clearly sets out who (in terms of agency representation and individuals) should be involved in discussions and meetings, and at which point they should be notified of the concern.

There are specific and clear processes to follow where concerns or allegations are raised about a Headteacher. Where a Headteacher is the subject of concern, the Section 5 Guidance and *Keeping Learners Safe Guidance, 2022*⁷ is clear on the respective roles and involvement of the Chair of Governors and Local Authority Designated Lead Officer for Safeguarding.

In LA1 it seems that there was either a lack of understanding of the Section 5 process or a failure to follow it. In particular there is no evidence of the Chair of Governors, as Foden's employer, or the Local Authority Designated Lead Officer for Safeguarding having been party to initial Strategy Discussions when concerns had been reported about Foden, nor were they invited to the Section 5 Professional Strategy Meetings which in some cases followed.

This was out of process and a missed opportunity

In the majority of cases where concerns were raised about Foden, the initial Strategy Discussions did not include representatives from the Local Authorities in which the children subject to the concerns resided. This meant that information about the children and any involvement they might have with other agencies was not taken into consideration when assessing risk and vulnerability. The Review has not seen any clear recording of Strategy Discussions (or the decisions made at these meetings), and most did not progress to a Professional Strategy Meeting where information could have been appropriately shared. This was often due to decisions being made that the concerns did not meet the criminal threshold or the threshold for a s.47 investigation to be instigated. The Review has seen little evidence of 'suitability to work with children' criteria being considered.

This was a missed opportunity

⁷ <https://www.gov.wales/keeping-learners-safe>

Almost all concerns raised about Foden were third-party and many of them related to agency professionals' discomfort and disquiet about Foden's conduct, as observed in his interaction with female pupils, many of whom were known by the agencies to have specific vulnerabilities that would put them at risk. The lack of a direct disclosure from a child, or a witness account of 'evidence' of abusive behaviour, coupled with a lack of consideration of the suitability criteria set out above meant that issues were to be referred back to LA1 Head of Education 1 to be managed as a concern about professional boundaries rather than an issue of safeguarding. In many cases LA1 Head of Education 1 had not personally attended these meetings and, in the absence of clear records had relied on LA1 Senior Manager Ed2 (later Head of Education 2) to report back, or on LA1 C&FS Senior Manager LADO relaying a message to LA1 Head of Education 1 by phone after the event.

LA1 C&FS's inadequate record keeping in regard to Section 5 Strategy Discussions is a recurring theme identified by the Review and represents missed opportunities to identify emerging patterns of Foden's behaviour and conduct.

The conclusion of matters at the point of Strategy Discussion, often attended by NWP and Education officials but not the school, rather than progressing to a Section 5 (or previously Part 4) Professional Strategy Meeting, demonstrated a lack of understanding in LA1 C&FS among senior staff of professional standards required of teaching staff and those working in education as set out not only in *Keeping Learners Safe 2022* but also by the EWC with whom teaching staff in Wales must register. Thus, concerns were repeatedly referred to as 'overstepping boundaries' or 'professional matters' rather than considering the behaviours through a safeguarding lens, or as potentially abuse of Position of Trust. This meant discussions around Foden's suitability to work with children were precluded at an early stage.

In the cases of Child A, Child C and Child F there was sufficient information shared in referrals to amount to breaches of professional practice. In each of these cases, questions were repeatedly asked by senior officers in LA1 C&FS whether Foden had been specifically advised not to act in a certain manner and, if he had not, whether he would **know** that he should not behave in certain ways, for example being alone with a child, hugging a child, or giving them a lift in his car. In the case of Child G, similar questions were asked about whether it was acceptable for a teacher to email pupils on their private email address late at night, and although it was made clear by LA1 Senior Manager Ed2 (later LA1 Head of Education 2) at a Section 5 Professional Strategy Meeting that it was not, the meeting still concluded that whilst the concerns were substantiated Child G was not at risk of harm.

This was a missed opportunity, and no rationale was given for this

Had LA1 C&FS Senior Manager LADO and their team familiarised themselves with the EWC Code of Professional Standards and Practice they would have been aware that:

'it is the personal and professional responsibility of Registrants to:

- *recognise their personal responsibility as a role model and public figure, to uphold public trust and confidence in the education profession, both in and out of the workplace*

And to conduct relationships with learners and young people professionally by:

- *communicating with learners and young people respectfully, in a way which is appropriate for them*
- *using all forms of communication appropriately and responsibly, particularly social media*
- *ensuring any physical contact is necessary, reasonable, and proportionate*
- *contributing to the creation of a fair and inclusive learning environment by addressing discrimination, stereotyping, and bullying*
- *maintaining professional boundaries'*

In cases where concerns raised by or about the victims/survivors were deemed not to meet the threshold for a Professional Strategy Meeting, the 'voice of the child' was not heard- no professional spoke with the children involved even when there were repeated concerns reported about the same named children, for example in the cases of Child A and Child F. The Review has not seen evidence that speaking to children was considered, and the decision not to regard matters as worthy of further investigation was made on the basis that in many cases the children who were the subjects of the concern had not directly disclosed or alleged abuse themselves. Weight was not given to the opinion and observations of experienced professionals who had witnessed concerning behaviours.

This was a missed opportunity

In April 2019 significant concerns were reported to LA1 Head of Education 1 by SMT 1. In response an *ad hoc* meeting was convened comprising the Director LA1 C&FS, LA1 C&FS Senior Manager LADO, LA1 Head of Education 1 and their legal advisor. There is no formal record of that meeting although contemporaneous notes made in that meeting by two attendees were shared with the Review.

At this meeting it was relayed that Core SMT 1 had framed the concerns raised as Foden putting himself at risk of false allegations by repeatedly meeting vulnerable female pupils alone in his room. This framing was accepted at the meeting without question by LA1 C&FS senior officers – as it had been by LA1 C&FS LADO since concerns were first raised in 2018. This reinforced the narrative that Foden was putting himself at risk, a theme which the CPR team noted had emerged first in the response to the concerns raised in 2018 and continued throughout the period of the Review.

Even though the pupils named by Core SMT 1 were known to at least some of those present at the meeting to have been the subject of previous referrals by other agencies regarding Foden's interactions with them, no one thought to consider that it

could be the vulnerable female pupils themselves who may be at risk from Foden. No one joined the dots or made the connection.

This was a missed opportunity

The outcome of this meeting, in terms of allocated actions has been disputed. Whilst there are also references to subsequent '*discussion on the stairs*' and '*shots across the bow*' conversations with Foden these cannot be evidenced. There was no formal Section 5 Professional Strategy meeting held in response to Core SMT 1's concerns, as LA1 SMT 1 was not requested to make a referral despite having shared his serious concerns, and neither did he take it upon himself to do so.

It was known in the school that Foden had frequent meetings with vulnerable female pupils behind closed doors in his office, with blinds closed, and lights off. Pupils and staff recognised that Foden had favourites, that he referred to these female pupils as his '*waifs and strays*', that they (the female pupils) were perceived by other pupils and staff to be treated differently and that they '*could get away with anything*'. Some of these female pupils had already been identified by Foden to his colleagues as being likely to make false allegations, thus actively undermining their credibility.

Professionals reporting concerns frequently experienced '*push back*' re the quality and format of their referral. Where a professional had observed behaviours which caused them to be concerned or uncomfortable they were dismissed as this being '*just a feeling*' and there being no *evidence* of abuse. The criminal threshold not being met was often used to determine whether a matter was taken forward and there was little evidence of use of the '*Suitability Criteria*' set out both in the *NWSCB 2020 Guidance* protocol and Section 5 Procedures. The fact that a child, children (or parent) had not made a specific or direct complaint was used to close down any further inquiry. Very few cases included any attempt to discuss the concerns with the child or children who were the subject of the concern.

Where, as was the case for Child G and Child F, children were spoken to, both said that they had been hugged and that this had made them feel uncomfortable. In Child G's case the '*hug*' was described as lasting 10 minutes where her arms were '*down beside her*'. Child F is recorded as saying that she was uncomfortable and had not given permission for the '*hug*'. The '*hug*' described by Child F was subsequently deemed by a professional to have been an '*appropriate hug*' when demonstrated, at their request, by the child.

In spite of the children's discomfort, neither of these incidents, when included alongside other concerns in referrals from more than one agency triggered a discussion around potential harm and the suitability of a senior professional behaving in this way. To have this type of contact with a child breaches the professional standards required of education staff. That aside, a professional adult giving a child a '*hug*' **which the child subsequently discloses to have been unwanted and uncomfortable** can under no circumstances be regarded as acceptable or appropriate, and should have triggered further intervention.

In addition to the way in which management of allegations was handled within LA1 C&FS there was disagreement between LA1 C&FS and other agencies working with vulnerable children. Amongst the three local authorities there were also differences of opinion about the threshold at which Section 5 Procedures should be invoked. Referrals made to LA1 C&FS were challenged based on their format, content and intent. These challenges were often carried out via extended email exchanges where a short phone call could have clarified the matter. The Review was told at Learning Events that this became a deterrent to making further referrals. The consequence was that action in response to referrals was delayed and children were left at risk of harm from Foden.

This was a missed opportunity

One such example of cross-border disagreement was that the interpretation of the threshold for holding a Section 5 Professional Strategy Meeting differed between LA1 where Foden was employed and LA2 where a female pupil who was the subject of concern was resident. This was the case for Child A where in 2019 an LA2 Social Worker reported their concerns about Foden to their manager, a concern also held by and shared with Child A's mother, about the nature of the relationship between Child A and Foden. The record related to a visit made to Child A at Ysgol Friars and where Foden was present.

The LA2 Social Worker recorded in their notes:

'It was apparent to me from the meeting that [Child A] was very trusting of [Foden] she appeared over reliant on him. [Foden] also appeared to be going that extra mile in supporting [Child A] as they both stated that Foden had been taking [Child A] to attend appointments and these were appointments that both mum and dad were unaware of.'

'I felt on a few occasions whilst in the meeting that the situation appeared too informal and where both [Child A] and [Foden] appeared overfamiliar with each other.'

The LA2 social worker then followed up with a home visit to the mother the next day in order to discuss a 'sensitive issue'. The worker recorded that:

'Whilst at the home visit Mum has stated that she feels uncomfortable with the situation of the Headmaster [Foden] spending too much time with [Child A]. Mum stated that from the initial multi agency meeting held in regard to [Child A], it was already decided without her agreement / or consent that the [Foden] and DDSP would support her daughter to attend appointments.'

'Mum stated that there have been 2 occasions where [Foden] has not returned [Child A] home until gone 9.30pm as they had apparently been at a cake-making evening or open evening.' Mum 'feels uncomfortable at times as [Foden] is overly kind and [Child A] helpful and this is how [previous perpetrator] was with the children'. Mum stated that she did not want to say anything out of turn or suggest anything other than support, however, [Child A]

spends most of her time with the [Foden], either at school or after school hours.'

'Mum also stated that both [Child A] and [Foden] were almost too overfamiliar with each other, in regard to how they greet each other or making a joke out of their situation.'

The LA2 Social Worker recorded that Mum did not know how to address this matter and that with Mum's agreement she had agreed to take it up with her line manager.

The discussion with the line manager in LA2 led to the matter being shared by LA2 Children's Services with LA1 C&FS. There followed a lengthy debate (largely over email) between LA1 C&FS Senior Manager LADO and various officials about whether the threshold for a Professional Strategy Discussion had been met. LA1 C&FS was clear that the threshold had not been met, whilst LA2 stated clearly that if the matter had been raised regarding a professional in their area a meeting **would** have been held to discuss the concerns.

This was a missed opportunity

The matter was escalated in correspondence between LA1 C&FS Senior Manager LADO and LA2, with a request from the former that a meeting was held to test the Part 4 threshold, which it failed to meet, but a Section 3 Strategy Discussion was subsequently held where it was acknowledged that the behaviour was inappropriate and '*gives a very uncomfortable feeling*', especially in light of other similar historic reports, but did not warrant formal strategy discussion or consideration under part 4 AWCPP 2008. This suggests an unacceptable tolerance of discomfort around inappropriate behaviour. Ultimately the matter was discussed at Head of Service level across Education and Children's Services Departments in both authorities.

Despite this discussion LA1 C&FS Senior Manager LADO remained adamant that the matter did not meet the threshold for discussion under the AWCPP 2008 Part 4 procedures (although he did note that there had been boundary issues and that the case would probably meet the criteria under the new 2020 Section 5 directions that had not yet been invoked).

It was clear in the record of these discussions that LA1 C&FS were aware that Child A had referred her own concerns about Foden the previous year (2018), and that she had been named by Core SMT 1 only two months earlier as one of the female pupils Foden was known to be spending time alone with.

This was a missed opportunity

A second example of LA1 C&FS initial reluctance to convene a Section 5 Professional Strategy Discussion (or consider under AWCPP 2020) related to the case of Child F. A referral was made by her social worker in July 2023 but was subject to repeated

requests for clarification. The push back from LA1 C&FS about the case led to delay, allowing it to drift over the school summer holiday. The matter was still in dispute nine weeks later at the start of the Autumn term and was not resolved until after Child D had disclosed sexual abuse by Foden on 6 September. The child about whom the threshold for concerns around interactions with Foden had been raised and disputed was subsequently recognised as Child F. This case is discussed in more detail under Theme 3: Inter-agency working.

This was a missed opportunity

The handling of each of these cases by LA1 C&FS showed little insight into the *modus operandi* of sex offenders, or the grooming of victims or of how sophisticated perpetrators will groom adults both in the organisation in which they operate and the community in which they work. Foden had normalised his behaviours even in the eyes of professionals. The content of the July 2023 referral re Child F was almost a textbook case-study of methods employed by perpetrators when grooming a child. The delays described above and the resistance to holding a Section 5 Professional Strategy Meeting left Child F vulnerable.

This was a missed opportunity

In terms of referrals under Part 5 relating to inappropriate physical restraint and intervention (with young male pupils) there is much debate about what level of intervention is appropriate and the techniques and methods which could reasonably be applied. Video footage of some of these interventions was available and deemed by NWP in one incident to be disproportionate, meriting suspension whilst the matter was under investigation. In practice, in spite of this concern being lodged at the same time as another restraint allegation against a young male pupil being considered and Section 5 investigation re a female pupil Child G, there is no evidence of these parallel matters being cross-referenced or linked with previous similar concerns.

This was a missed opportunity

Foden was required by the Chair of Governors to work from home for a period. This was despite the decision made by senior officers LA1 Director C&FS, LA1 Head of Education 1, LA1 Head C&FS, LA1 Former Corp Dir, LA1 Legal that it should be recommended to the Chair of Governors that he suspend Foden.

On 13 October 2021 Child G made a disclosure regarding Foden to staff at School 2. Child G directly disclosed that interaction with Foden made her feel uncomfortable and afraid of coming to school.

On 15 October 2021 two referrals were sent to LA1 C&FS Services in relation to Foden's interactions with Child G.

School 2 made a referral to LA1 C&FS following Child G's disclosure that because of Foden, she felt scared and uncomfortable coming to school, that her friends had shown her articles on Social Media about Foden and encouraged her to see that what Foden was doing to her was '*incorrect*'.

Child G disclosed that on 12 October 2021 Foden had asked to see her in his office and when she refused Foden had collected her from her first lesson and had taken her to his office himself. Child G shared that Foden had waited outside the classroom for 5-10 minutes for her to calm down as she had been distraught. School 2 submitted further information that a teaching assistant had also shared that she had overheard another pupil say that Child G '*will be complaining about Foden because he has touched her leg*'. Child G had also disclosed that Foden emailed her late at night, once as late as 00:45. Child G observed that Foden was helping [her] but was doing it in the wrong way.

On 15 October 2021 a Health Care agency made a separate but similar referral to LA1 C&FS in which it was reported that Child G had disclosed to a Health Care professional that day that Foden was making her feel very uncomfortable as he was asking to see her frequently in his office in school in order to check her arms for signs of self-harm.

Child G also shared that Foden frequently emailed her after school hours '*asking if she is ok and if she did not reply he will continue to message, recently she stated he emailed her at 00:45 asking her to come and see him in his office in the morning.*'

Child G disclosed to her health care practitioner that she was fearful of being excluded. She also informed them that she had spoken to Deputy Head DSP School 2, who had downloaded some of the emails from her phone and had also made a referral.

On 19 October 2021 the task of chairing a Section 5 Strategy Discussion was delegated to LA1 Team Leader C&FS at which it was agreed that a s.47 investigation would be carried out in regard to Child G and that confirmation of the emails sent by Foden would be sought. It was noted that there was no evidence of an offence having been committed but that there were boundary issues and that in terms of a Section 5 Professionals Strategy Meeting it was unclear whether there was abuse of a child.

The s.47 investigation commenced on 19 October 2021. During the investigation Child G shared that Foden frightened her, and that she had asked the Deputy Head DSP School 2 to inform Foden that she did not want to see him, and Deputy Head DSP School 2's response was that they '*couldn't do that because he is [their] boss*'. (this is a quote, paraphrased by LA1 in their chronology).

When asked about the hug mentioned in the referral from School 2, Child G shared that Foden had asked her to go to see him in his office. At first, she had refused then agreed. She disclosed that Foden had given her a hug and described that they were sat side by side, Foden had both his arms around her, and Child G's arms were down beside her. Child G had explained that Foden gave her the creeps. Child G said the hug lasted around 5-10 minutes.

Child G was advised that the hug and timing of the emails were inappropriate and unprofessional and to speak to her grandmother that evening. It was recorded that

'the outcome of s.47 is that concerns are substantiated, but the child is not judged to be at continuing risk of significant harm'.

The s.47 investigation concluded 19 Oct 2021. No one asked to see Foden's emails to verify Child G's account of events, nor indeed to seek further context or clarification of the exchanges.

On 3 November 2021 a Section 5 Professional Strategy Discussion was convened following the s.47 investigation.

It was reported in this Section 5 Professional Strategy Discussion that in the s.47 investigation, Child G had told social workers that she had conducted an internet search on Foden which had made her even more uncomfortable. She said that she was not happy about the things she had heard about him.

In relation to the prolonged hugging, Child G said that she was upset and had been crying. Foden had asked her to go into his room. He gave her a hug as she was upset but she felt that the hug went on for 10 minutes and had made her feel very uncomfortable.

The meeting Chair- LA1 Team Leader C&FS- inquired of the meeting whether it was appropriate for Foden to be sending e-mails outside of school hours, stating that they did not know whether this was acceptable conduct, and that LA1 Ed would be asked for their view.

LA1 Senior Manager Ed2 (Later Head of Education 2) informed the meeting that [in regard to Foden sending emails to Child G]

'it is inappropriate. Headteachers should not be conversing with pupils especially vulnerable ones outside of school hours. As the e-mails sent were from his school e-mail address they will be in a cloud and cannot be deleted. His actions were definitely inappropriate and not normal practice for a headteacher, the timing of it is also an issue he had only been at the school a month. The Education Department are concerned about the issues raised but in terms of the discussion here threshold is not met but some issues need addressing'.

LA1 Senior Manager Ed2 reiterated that *'it's a big no no to email.'*

It was noted in the meeting that professionals had only seen emails from Child G's phone but NWP stated that that:

'if the two are corresponding outside of school hours not sure how far we can take it, he's responding to her message he's not the one that's initiated the conversation, and if it's not going to go any further there's no need to gain access to the e-mails'.

Even though NWP recognised that *'if he was initiating the conversation then it would be a different story'* the decision was made not to take the inquiry further and Foden's emails were not reviewed.

The decision not to review Foden's email correspondence was a missed opportunity

The Reviewers have had access to some of Foden's email exchanges with Child G, and it was clear that Foden contacted Child G frequently over a considerable period of time, sometimes at night, and that sometimes he initiated the contact.

It was noted in the Section 5 meeting that Foden was new to School 2 and may not have been advised not to respond to Child G who had been known to email other staff. In fact, Foden had singled-out Child G, identifying her as vulnerable and had asked safeguarding staff about her. Foden was told that staff were finding it difficult to manage Child G's interactions with professionals and Foden had immediately offered to step in. Had DSP School 2 been invited to the Section 5 Professional Meeting, or had LA1 Ed engaged with School 2 on the matter prior to this meeting, this could have been made clear.

This was a missed opportunity

The outcome of the Section 5 Professional Strategy Discussion was that concerning issues had been raised *'but in terms of the discussion here, threshold had not been met but some issues need addressing.'* It was agreed that matters would need to be addressed by Education with the school. It is not clear if any action was taken, or how and who in the school was to be informed of this, though LA1 Senior Manager Ed2, later Head of Education 2 was in attendance. There was no clear record kept of the decision-making process or outcome which likely emboldened Foden going forward.

This was a missed opportunity

In the Chronology LA1 C&FS Senior Manager LADO reports:

'during the discussion some matters of professional practice were discussed. These involved the pastoral and support role and whether he [Foden] should be in a 1:1 situation with a vulnerable child, the question of touch and embracing a child and the messages outside school hours. A representative of the Education Service was intending to raise these issues with Foden'.

There is no record of any subsequent action having been taken or of who might have spoken to Foden and when.

This was a missed opportunity

14 January 2022 School 2 contacted LA1 Ed3 seeking advice on the outcome of the school's earlier referral relating to Child G, dated 15 October 2021. School 2 was concerned Foden had again been in contact with her requesting to see her only a week into the new term.

LA1 Ed3 subsequently contacted LA1 C&FS requesting feedback following School 2's earlier referral on Child G and was told by LA1 Team Leader C&FS that the matter had concluded and was closed to LA1 C&FS (see below for further feedback). This is consistent with an email seen by the Review (dated 10 November 2021) addressed to Chair of Governors, School 1 (see footnote p. 25) which stated as part of the Section 5 Strategy Discussion that

'...no crime or any child protection matters. The case is closed and there are no further actions necessary.' 'Matters of professional practice were discussed'

and that

'a representative of the Education Service was intending to raise these issues with Mr Foden'.

The Review has seen evidence that Foden received a letter dated 15 November 2021 from LA1 C&FS Senior Manager 2 (LADO)

'as per action of Section 5 Strategy Discussion (03/11/2021) regarding the outcome of an investigation into the allegations made against [him] recently'.

In response, Foden had provided written assurances by email on 15 November 2021 that he

'will not be replying to emails or meeting [Child G] after this allegation'.

That this had not been communicated to the school was a missed opportunity

Had the school been made aware of this outcome, they would have been in a position to respond very differently when told by Child G in January 2022 that Foden had contacted her, requesting to see her.

On 14 January, LA1 Ed3 sought advice from LA1 C&FS, specifically asking whether there was anything to prevent Foden from speaking with Child G. Following this request for information, LA1 Ed3 stated in an email sent to LA1 Head of Education 1 (*for information*), that she had been informed by LA1 Team Leader C&FS, based on Section 5 Professional Strategy Discussion minutes, that

'the Head of Year should be informed about the meeting and that Child G is happy to meet with Foden' ('fod angen i Pennaeth blwyddyn Child G wybod am y cyfarfod a fod Child G yn hapus i gyfarfod a Mr Foden').

The poor grammar in this email may have clouded its intended meaning, and there was nothing in the Section 5 Professional Strategy Discussion notes corresponding to the head of year needing to be informed. It is unclear who originally made this point, and based on what information.

This ambiguity notwithstanding, it would appear that Foden's response to LA1 C&FS Senior Manager LADO, namely that he *'will not be replying to emails or meeting [Child G]'* was not known by LA1 Team Leader C&FS and therefore was not conveyed to School 2.

This was a missed opportunity

The Review has seen no evidence that these two key pieces of information had been shared with the school safeguarding staff following the November 2021 investigation. Deputy Head DSP School 2 stated, during an interview with Reviewers, that they had not been aware of this information at the time and stated that Child G had **not** been happy to meet Foden. Child G's unease at having been asked to meet with Foden was the reason School 2 had sought advice from LA1 Ed3. School 2 was also not aware that Foden had been spoken to and had stated that he would refrain from seeing or contacting Child G again.

On 10 January 2022, four days prior to the above correspondence, emails were exchanged between LA1 Head of Education 1 and Foden concerning whether or not School 2 should make a new referral about Child G. The Review has seen emails that demonstrate that LA1 Ed3 was firmly of the opinion that a referral **should** be made and that Foden should **not** be told about this referral. These emails demonstrate that Foden **was** informed. There is evidence that LA1 C&FS Senior Manager LADO and School 2 Deputy Head were named as having been involved in the discussion, but it appears that no further records exist, and the Reviewers have not been able to ascertain the nature of the concern, the content of the discussion or the circumstances which gave rise to discussion. LA1 C&FS have stated that no referral was made.

This was a missed opportunity

The negative response received to the submission of concerns about Foden undoubtedly acted as a deterrent to further reporting. This is evidenced in communication between Core SMT 1 and Core SMT 3 in April /May 2020 which refers back to the report made by Core SMT 1 in April 2019, and in email exchanges sent in 2023 between all three members of Core SMT at Ysgol Friars (see key events) and seen by the Review where Core SMT 1 and 3 requested that the DSP 2 makes a referral and he refused to do so.

Similarly, in other cases relating to victims/survivors when front-line practitioners made referrals to LA1 C&FS, they were required to revert to their senior managers for further support. In some cases, there is evidence that the application of thresholds became a focus of extended debate between LA1 C&FS and senior leaders in LA2 and LA3, rather than directing action to keep children safe. This is explored under Theme 3 Inter-agency Working.

The Reviewers saw no evidence of formal escalation through The North Wales Protocol for the Resolution of Professional Dispute Policy processes being followed to resolve these disputes, but rather prolonged email exchanges between professionals in neighbouring Local Authorities.

It is important that professionals raising concerns about an adult working with children can do so with confidence that they will be heard. For the most part the children who were the subject of a professional's concern were not spoken to, and where they were, their opinions and experiences were not taken into consideration or not given sufficient weight to impact on outcomes.

These were missed opportunities and children remained at risk

Theme 3: Inter-Agency Working

The formal arrangements for inter-agency working to safeguard children and adults at risk are set out in the *Social Services and Wellbeing (Wales) Act, 2014*⁸ and accompanying Guidance. *Working Together to Safeguard People: Code of Safeguarding Practice For individuals, groups and organisations offering activities or services to children and adults in Wales January 2022*⁹.

The Welsh Government expects all individuals, groups and organisations offering activities or services to children and adults in Wales to follow the advice provided in this Code of Safeguarding Practice.

Where there is a concern about an adult working with children, professionals in all agencies have a responsibility to work cooperatively and to act without delay to safeguard the child and other children with whom that adult might come into contact. Numerous safeguarding reviews have identified that effective inter-agency working practice is fundamental to keeping children safe. There should be clear written protocols for managing concerns and information sharing that are effective and proportionate. Professionals need to be confident in their own work and ability to assess risk, but also to recognise the roles, systems and restrictions under which professionals in other agencies work. Whilst there is an employer's duty of care to the adult, the safety of the child takes precedence. All agencies must ensure that their staff are competent, well trained and able to escalate both intra- and inter-agency risks expediently.

⁸ *Social Services and Wellbeing (Wales) Act, 2014*

⁹ <https://www.gov.wales/working-together-safeguard-people-code-safeguarding-practice>

Trust and understanding are vital elements of all partnership working and a focus on the well-being of the child/children should override personal and professional differences.

Professionals from all agencies need to be mindful that other agencies may operate under different structures, that protocols for sharing concerns may differ and that the terminology commonly used by one agency may not be the same across all agencies. It is therefore essential that multi-agency training takes account of this. Equally, thresholds for intervention may differ between agencies and moreover between counties and regions. Barriers to inter-agency working were demonstrated to this Review in the IMR analysis provided by LA1 C&FS where it is noted *that 'LA1 Children Services remain unclear about the allocation of responsibilities between the LEA and Board of Governors in such areas'*.

Evidence submitted to this Review has demonstrated some considerable barriers to effective inter-agency working across the three Local Authorities and agencies involved in this case. This is covered in some detail in Theme 2 above in relation to the management of allegations but also applies to other aspects of inter-agency working.

The format and content of referrals to LA1 C&FS are a case in point (although a common format is also used by LA2 and 3). It is expected that all safeguarding and child protection referrals be made to a single point of contact for triage, using a standard referral form. The referral form LA1 C&FS use is common across the region and is designed to capture details of concerns about children and families. The Review is concerned that if referrals and enquires are made over the phone, they will not be actioned until the form is completed to the satisfaction of LA1 C&FS.

Where a concern or allegation is made against an adult working with children, LA1 C&FS require the same form to be completed, notwithstanding that there may be little information known about the child and family (particularly when that child is resident in another county) and that the concern relates to the behaviour of an adult. There is no scope on the form to properly address concerns about the adult against whom the allegation is being made, making the form impractical to use in the situation. Use of the form is applied rigidly, as experienced first-hand by the CPR Review team, for example even when DDSP telephoned to report the disclosure by Child D on 6 September 2023, where an emergency response should have been the first course of action, LA1 C&FS required the information to be submitted. It is also of note that the form is not easy to find online in a format that can be easily edited and does not guide the referrer in terms of content.

Professionals from a number of agencies contributing to this Review commented on the difficulty of having a referral about an adult working with children accepted by LA1 C&FS, many reporting that the form was returned to them requesting further clarification and querying their use of terminology or disputing application of thresholds. In some cases, this resulted in the form having to be revised and resubmitted several times, in turn causing delay in acting on the content. In many cases a phone call between professionals could have clarified matters much more swiftly and then been followed up in writing.

It was reported by officers in LA1 Ed that this had resulted in schools, under the guidance of senior education safeguarding officers, having to take a strategic approach to form filling in order to get a concern accepted by LA1 C&FS for action. This was inevitably a source of frustration to the referrer, and obvious risk to the child or children, as having to consult on the way in which to successfully complete a referral form would invariably cause delay in making the referral itself.

In terms of application of thresholds there was a reluctance to properly consider concerns raised by experienced professionals in other agencies where it was deemed there was a lack of concrete evidence, even in cases where multiple referrals were received almost simultaneously, independently of each other by informed professionals who referenced the same concern. In the case of Child A professionals from both the SARC and NSPCC had separately referred their concerns about the nature of observed interactions between Foden and Child A which indicated a power imbalance, over familiarity and overstepping boundaries. The NSPCC referrer reported to this Review that they '*could not understand*' how the senior official LA1 C&FS Senior Manager LADO, could have interpreted what they had written in the referral as they had done, there seeming to be a complete disconnect between the content and the response received. This caused the NSPCC worker to review the referral and discuss with their supervisor. The referral was reported by LA1 C&FS to the Review as having been '*retracted*' whereas in fact it had been deemed by LA1 C&FS Senior Manager LADO not to have met the threshold for a Section 5 Professional Strategy Meeting, and no further action was taken. NSPCC vehemently deny having retracted their referral.

Similarly, in July 2023 a social worker from a neighbouring authority submitted a report regarding Foden's interactions with Child F which contained a description of behaviours which clearly suggested that Child F was being groomed, and that Foden had hugged her in a way that made her feel uncomfortable. The referral was considered inadequate on the basis that further information was required in order to be able to proceed and that the referral was poorly presented.

In the ensuing discussion conducted largely via email LA1 C&FS Senior Manager LADO questions the referral, stating:

'I think you can understand that making a child protection referral about Foden is a very serious matter. It infers that he is doing something directly against the instructions and agreements in place with him, that he shouldn't. We really need to understand the evidence.' Whilst at the same time referring to '*This has not been the first instance in which it has been asked for Mr Foden to not to have any unsupervised time with Child F due to concerns around the professional relationship (It is unclear who has asked who not to do this, and when. Has Foden been asked not to do so? If so, has he agreed? Who told him and when? Is it part of a child's Education Plan that he doesn't do that? If he's not to do it, has he been told why?'*

This demonstrates a lack of inter-agency understanding of professional standards and processes as referred to under Theme 2: Managing Allegations. The matter was not deemed by LA1 C&FS Senior Manager LADO to meet the threshold for a Professional

Strategy Meeting under Section 5 although the other authority was clear that it met *their* threshold. The matter was not resolved for a further 9 weeks – in fact until after Child D had disclosed abuse at the school on 6 September 2023.

This was a missed opportunity

The way in which concerns about adults working with children were managed by LA1 demonstrates a clear disconnect between LA1 Ed and LA1 C&FS in terms of expectations of professional practice and a lack of respect for other agency's professional assessment of concerns and risks which do not meet the criminal threshold.

In the case of Child A and F there were disputes between the home authorities and LA1 regarding the threshold for holding a Section 5 Professional Strategy Meeting, with those authorities confirming that had the professional been working in their area the threshold would have been deemed to have been met and a meeting convened.

Lack of understanding of agency procedures also impeded effective and efficient handling of concerns in an emergency. When the disclosure from Child D was reported on 6 September 2023, it was not reported in line with school policy which clearly states that when a concern or allegation is raised about the head teacher the Chair of Governors and Education Safeguarding Officer should be informed. The Review has heard that neither the Chair of Governors nor his Deputy could be reached by DDSP until early afternoon, despite repeated attempts, and have seen no evidence of any attempt having been made by DDSP or LA1 Team Leader C&FS to contact the Education Safeguarding Officer, as would be expected if reporting procedures were followed, nor did the DDSP or LA1 C&FS immediately call NWP, although there was verbally stated evidence of the sexual abuse of a child by the Headteacher. Despite having been informed prior to NWP, the Review has seen no evidence that LA1 Senior Manager Ed2, Later Head of Education 2 informed the Education Safeguarding Officer, Chair of Governors, LA1 Head of Ed 1 or NWP.

The result of this was that Child D remained at risk, hidden on school premises whilst Foden, who had unsuccessfully tried to gain access to her, was able to delete evidence on his mobile phone and continued to have access to his other devices.

Theme 4: Restrictive Practices

The Review has been told that Foden had a reputation that dated back over decades for using physical force to restrain male pupils. Reviewers have seen evidence of four documented cases of restrictive practices having been used by Foden against young, male pupils between 2021 and 2022, across both schools, and also of incidents carried out by other male members of the Core SMT in Ysgol Friars. Three of these four cases were referred under Section 5 procedures and one was not. None of the referrals were made by the school. A clear, full record of complaints on the use of restrictive practices was not found in Ysgol Friars, as would have been expected by LA1 Ed.

Foden's use of restraint against young male pupils not only demonstrated an abuse of his authority and control but was likely to have been deliberate to set a climate of fear among pupils. Restraint incidents were conducted in plain sight, often with members of his SMT nearby, encouraged by him to film incidents on their personal mobile phones. Foden had told them that he was fully justified in his actions and stood firm on his right to act in this way, as outlined in Ysgol Friars policy and in his interpretation of various county and national policy and guidance documents (referenced in detail below). This same stance was used in his defence statement submitted 16 December 2021 for consideration at a Section 5 Professional Strategy Meeting. That his stance on this behaviour appears to have gone unchallenged is of great concern. It also paved the way for other male members of his Ysgol Friars SMT to adopt the same position and behaviour.

Welsh Government is clear that the focus of policy and practice should be on the reduction of restrictive practices. Welsh Government published a *Reducing Restrictive Practices Framework, 2021*¹⁰ that seeks to reduce the requirement to use restrictive practices, and states that where they are used, it is as a last resort to prevent harm to the individual or others and is informed by person-centred planning. This Framework replaced the *Framework for Restrictive Physical Intervention, Policy, and Practice, 2005*¹¹, which was based on the same core principles.

However, the 2021 Framework provides guidance and is non-statutory, setting out the Welsh Government's expectations for policy and practice. As such Estyn is expected to consider compliance with the approach set out in the Framework when they carry out inspections. Placing this reliance on Estyn presents a risk given that it is not uncommon for over 6 years to pass between school inspections. Estyn's last inspection of Ysgol Friars was in 2017, 8 years ago. The Framework also sets out that if there is any indication that restrictive practices are being used inappropriately this must be reported as a safeguarding concern. Against this approach, the question of whether the degree of force used was reasonable or amounts to criminal assault is less likely to require addressing if every preventative step is first put in place.

Where restrictive practices are used, as a last resort, they must fall within the framework and principles that support human rights (*Human Rights Framework for Restraint produced by the Equality and Human Rights Commission, EHRC, 2019*¹²). All acts of restrictive practice must be the least restrictive option available. In the cases considered in this Review, this does not appear to have been the case.

Statistically, children with additional learning needs are most at risk of abuse. Particular sensitivity should be given therefore in exercising the power to use force against children with special educational needs (SEN), emotional and behavioural problems, as is laid out in the Welsh Government's *Reducing Restrictive Practices Framework: children's rights impact assessment, 2021*¹³. Foden did not comply with

¹⁰ *Reducing Restrictive Practices Framework, 2021*

¹¹ *Framework for Restrictive Physical Intervention, Policy, and Practice, 2005*

¹² *Human Rights Framework for Restraint produced by the Equality and Human Rights Commission, EHRC, 2019*

¹³ <https://www.gov.wales/reducing-restrictive-practices-framework-childrens-rights-impact-assessment>.

this expectation in relation to Child I, and did not apply provision, criterion or practice that was appropriate to the child's known condition.

National Guidance on restraints in force in the time period considered in this Review (*Safe and Effective Intervention – use of reasonable force and searching for weapons, 2013*¹⁴) also clearly sets out that teachers should use force as the last resort, and that pupils with additional needs should have a behaviour management plan where needed. That guidance sets out the role of the Education Authority in gathering information to identify trends and evaluate schools' attitudes towards the use of physical intervention.

LA1's own exemplar policy on Safe Intervention, published in 2018, reflects national guidance, and includes providing advice on reducing the need to use reasonable force and giving specific attention to pupils with additional learning needs (ALN). In terms of reporting on incidents, it is stated that a record of the incident should be made as soon as possible, (when the incident is still easy to recall) on the *Use of Reasonable Force-HS11* form, sending a copy to the Local Authority and keeping a copy safe at the school. This safeguarding policy places a duty on schools to contact the Designated Lead Officer for Safeguarding Children in Education immediately when a concern or allegation has been made against a member of staff. This was not done despite Ysgol Friars' policy containing this same information, albeit with outdated contact information. The school did not follow its own policy. Foden had persuaded his staff that the decision regarding whether the use of force had been unreasonable was his to make. The Review have no record of him ever having reached this decision, thus removing any obvious means by which the Local Authority could monitor the frequency and extent of force used in restraints by Ysgol Friars staff.

In this respect, Foden went to great lengths to undermine the principles set out in the 2022 national guidance and associated legislation by way of selective quoting, placing his own interpretation on ambiguities therein, and instructing his SMT- in emails seen by the Reviewers- that on handling such cases, the authority for making decisions about referrals on restraints by staff and what might constitute unreasonable force lay with him. He cast sufficient doubt on their own understanding of procedures gleaned through formal training provided to them by the Local Authority. In so doing, Foden increased his SMT's tolerance of this practice when seen, and also the associated risk of harm to pupils at Ysgol Friars.

On the use of unreasonable force, the school Child Protection Policy is consistent with national guidance in stating that an initial assessment- not an investigation- should be carried out to assess the circumstances but **only** after consulting with Social Services and the Local Authority. This should be done by the Headteacher in instances of allegations against their staff or by the Chair of Governors when it relates to a Headteacher. The Review has seen no evidence that the Chair of Governors was informed about any restraints, as they should have been, and no cases were reported to the Local Authority by either school staff or the Chair of Governors.

¹⁴ *Safe and Effective Intervention – use of reasonable force and searching for weapons, 2013*

School 2's Policy on Safe Intervention broadly follows LA1's exemplar policy, and there is mention of the use of HS11 forms in this context in one of their recorded restraint cases.

Today, the *Keeping Learners Safe Guidance, 2022* emphasises that when a concern relates to a member of staff, schools cannot make their own internal decisions in terms of whether this is a disciplinary matter or a child protection matter.

A clear organisational commitment to human rights with a reduction in the use of restrictive practices can only be properly implemented and maintained through a whole organisational approach. This was fundamentally lacking in Ysgol Friars. Those with concerns felt unable to raise their concern with DSP 2 since he was either the subject of their concern or had been a supportive bystander in incidents involving Foden's use of these methods against male pupils.

Staff must feel that they are able to use Whistleblowing processes to escalate concerns in instances of concern, including where it is perceived that the degree of force used in restraints is excessive, or the practice is used too frequently. The Review has heard from staff who did not feel able to Whistle blow, nor did they know how to go about whistleblowing about behaviours that caused them concern.

A summary of the four documented incidents is given in the key events timeline, listed by incident date.

Non-Referred cases:

Child M Ysgol Friars, 18 May 2021, early KS3 pupil.

The incident in focus involved a male pupil being reprimanded for phone use and swearing. The parent's subsequent complaint reported three adult males (Foden, Core SMT 1 and DSP 2) using restrictive practices against Child M and using their phones to film these altercations, allegedly in an attempt to elicit a reaction. The Review hears that this was a practice which was commonly used by SMT members and was used to trigger behaviour in a pupil that would result in the ramping up of negative behaviour points to the point of reaching a permanent exclusion threshold.

In this instance, the most extreme methods of restraint were used by Foden who Child M had sought out for protection from Core SMT 1 and DSP 2. Foden allegedly held him in a chokehold during a struggle, and later across his chest, reportedly restricting his breathing, despite Child M being in an already distressed state and this going counter to the school's own policy¹⁵. An initial informal complaint by Child M's parent was ignored. The complaint was then formalised in a letter sent by the parents to the Chair of Governors. It was claimed that Foden had admitted that although the method used had restricted the child's breathing, in a letter sent by Foden to Child M's parent, he quoted NWP as having '*observed that [his] technique was perfect*', a claim since refuted by NWP.

¹⁵ *Pupil Conduct Policy, Section 6: Physical Restraint*

The event was captured on CCTV, and records show that the restraint was not considered by NWP to have amounted to criminal assault meaning that neither Core SMT 1 nor Foden were formally logged as suspects on NWP systems. There is an argument that the incident should still have been considered for a CID16 (see appendix 1) or for an assessment of '*suitability to work with children*' under Section 5 Procedures. None of these options were taken, and therefore there would be no record of the incident held on either NWP or LA1 C&FS records.

Requests by the parent to view this footage and see the associated *HS11 Use of Reasonable Force* form were ignored by Foden. There were reported inconsistencies in evidence given by the school to the parent.

There is no record of Child M having been checked for injury following these restraints, as is advised in national guidance which states an expectation that the child should be checked, both immediately and also in the longer-term, with support also being offered to the child. There is no such expectation outlined in Ysgol Friars' policy nor indication that this was offered or provided.

The school stated that they had followed their own policies in the handling of both the incident and complaint. The school policy had not been followed and in any case the school's policies deviate from national and regional guidance, detailed above.

The parent did not feel that the nature of her complaint had been understood i.e. that the restraint was not proportionate to the offence and had been the first rather than last resort used. In her persistence to be heard, she was ultimately designated as a vexatious complainant and told that future complaints from her would not be accepted. This decision, in a letter sent to the parent by Foden, stated that he had the full support of Chair of Governors and Gov 2. The Reviewers however have seen no evidence of their involvement.

Referred Cases:

Child H School 2 1 February 2022 KS4 pupil.

Child H was displaying challenging behaviour with his peers. Email reference to an HS11 form indicates that restraint techniques were used during this incident. Foden contacted the parent to inform them of an incident and consequential suspension. The parent, concerned that Foden was becoming renowned for this behaviour across both schools, reported the matter to NWP, Gov 3, LA1 Head of Education 1 and LA1 C&FS. In light of the parent's anger and the level of interest generated across agencies and on social media in response to a video of the incident having been circulated, the LA1 Head of Education 1 and Gov 3 School 2 took the decision that the matter would be investigated by the school as there was a risk to reputation. They did so apparently before a referral was made to LA1 C&FS. It is stated in an email sent by LA1 Team Leader C&FS that safeguarding procedures did not appear to have been immediately followed. Following this the matter was considered under Child Protection Procedures triggering a s.47 and Section 5 discussion but did not meet the threshold to proceed further.

The primary focus of extensive discussions between LA1 Ed and LA1 C&FS appears to have been around management of processes rather than risks and did not consider that this was the fourth *documented* incident where Foden had used restraint against a child in as many months.

Child J School 2, 12 November 2021, KS4 pupil.

Again, this incident was filmed by staff. Restrictive practice methods had been used by Foden against Child J who was sitting in the wrong class, refusing to move. In considering the referral, the issue of proportionality does not appear to have been considered, LA1 C&FS Senior Manager LADO stating '*we understand [Foden] did this under the Reasonable Force Procedures*' giving little indication of scrutiny of that stance or of the overarching principles of these procedures. They added that '*the practices viewed in the footage are general within schools under such circumstances*'. The Reviewers argue that this is not in line with the principles of this policy, nor indeed should be accepted as being '*general within schools*'.

Concern was expressed by LA1 C&FS Senior Manager LADO around the practice of staff filming such incidents, but it was felt that it was for the Governing Body to satisfy themselves on the policies they have in place and how these are executed and that there was no need to review the reasonable force policy '*which exists within the Education Department systems that give authority to teachers under some circumstances to interfere in this way*'. This referral did not progress to Section 3 or Section 5.

Child I Ysgol Friars. 27 September 2021. A restraint was carried out on a slightly built, early KS3 pupil with Special Educational Needs (SEN) and an Independent Development Plan (IDP). The child had received mixed messages about an instruction in class and became distressed. Foden was called to the incident, despite there being other intermediary steps outlined in the school's Behaviour Policy and it not appearing to be a dangerous situation. Foden used what was argued to have been unreasonable methods of restraint against the boy, showing no regard for his SEN. Four members of the SMT and other staff witnessed the event and some also filmed the incident. The NWP School PLO who arrived after Foden had tipped the child to the floor, witnessed Foden kneeling over the boy's head, with '*his crotch in the child's face*', while pressing down on his chest. This is against school, regional and national policies on restraint.

No medical or physical checks of Child I were completed or advised following the incident and the parent's requests to the school for counselling were ignored, contrary to national guidance outlined above. The mother reported in late December 2021 that her formal request for information had still not been met by Education.

At the time of the incident, the school did not refer the matter to LA1 C&FS, the child was not checked for injuries and no safeguarding actions were taken. Over a month passed before the school Data Protection Officer, on reviewing CCTV footage that had been requested by the parent, made a referral which triggered a Part 3, s.47 and Section 5 processes. This delay was key in NWP consideration at the Section 5 Discussion and in Chair of Governor's later rationale for deciding not to suspend Foden.

Concluding the joint s.47 process, it was noted that there was no evidence of significant harm nor lasting effects on Child I but there remained significant concerns about Foden's behaviour and that of his staff. The restraint was not considered by NWP to have amounted to criminal assault, leaving concerns only on the threshold of position of trust to be discussed, alongside the associated question of *'suitability to work with children'*.

A Section 5 Professional Strategy Meeting followed on 11 January 2022- Key points: Foden presented a statement in his defence for use in the Strategy Meeting on the restraint of Child I. In it he selectively quotes *Section 93 of the Education and Inspections Act 2006*¹⁶, *Welsh Government guidance document 097/2013*¹⁷ and his own school policy as justification for his use of restrictive practice in this restraint case and quoted his SMT as being supportive of his actions.

Regarding the position of trust threshold, LA1 C&FS Senior Manager LADO, Chair of the Section 5 Strategy Meeting, reflected on Foden's statement, noting that in their opinion it was

'very difficult to argue that Foden's behaviour would make it inappropriate for him to work with children, as Foden had stated clearly that he had followed policy at the time of the incident'.

This demonstrates a wholly inadequate level of scrutiny of the skewed perspective presented by Foden on national guidance and policy, as presented in his own statement. Stating that the *'Reasonable Force Policy sits within Education'* and explaining ambiguously that it *'gives authority to teachers under some circumstances to interfere in this way'* suggests that LA1 C&FS Senior Manager LADO lacked an adequate grasp on the matter. There was disagreement among attendees on this point- made by LA1 C&FS Senior Manager LADO- especially in light of there being a simultaneous investigation relating to Foden using similar restraint methods on Child J, School 2, and a referral under Section 5 considering concerns about Child G, all of which would have been known about at the time by LA1 C&FS Senior Manager LADO and LA1 Team Leader C&FS. Not all attendees had viewed footage of the incident, and it could be argued were ill-equipped to express a view.

LA1 Team Leader C&FS raised questions about there having been no attempt to take a more measured approach to resolution prior to the use of force. NWP questioned the need for Foden to take the child down. A social worker saw the method as not appropriate or safe. Ed2 had expressed strong discontent at Foden's conduct, noting that the law was vague in terms of the definition of reasonable force and when it can be used. However, Ed2 noted that the county's exemplar policy should be reviewed considering the concerns that had been raised in this case. It was also noted that Ysgol Friars was acting outside LA1's policy on Safe Intervention in terms of reporting on the use of reasonable force in not submitting HS11 forms to the LEA. LA1's exemplar policy also contains an incident reporting form to be used alongside the

¹⁶ <https://www.legislation.gov.uk/ukpga/2006/40/section/93>

¹⁷ <https://www.gov.wales/sites/default/files/publications/2018-03/safe-and-effective-intervention-use-of-reasonable-force-and-searching-for-weapons.pdf>

HS11 form that could have been used by SMT but was not. It features a comprehensive checklist:

- *Were sufficient/appropriate mitigation steps taken?*
- *Were the physical interventions completely necessary?*
- *Were there grounds for using physical intervention?*
- *Was physical intervention used reasonably?*
- *Were approved physical interventions used?*
- *Was the physical intervention used commensurate with the incident?*
- *Were appropriate/adequate steps taken after the incident?*
- *Is the reporting process complete and comprehensive?*

Professional opinion on these points is key where there is a complaint or allegation of abuse. This information was not available to LA1 C&FS in assessing this or other referrals relating to the use of restrictive processes by staff at Ysgol Friars.

In concluding matters, a heavy emphasis was placed on Foden's statement and the legal ambiguity around what constitutes reasonable force and its acceptable use. Consideration at this level of detail to interpret legislation detracts from the overarching principle of prevention, proportionality and of taking a trauma informed, child-centred approach to child protection matters. *Keeping Learners Safe, 2022* states that:

'To be judged lawful, the force used would need to be in proportion to the consequences it is intended to prevent. The degree of force used should be the minimum needed to achieve the desired result.'

The *Reducing Restrictive Practices Framework, 2022*¹⁸ seeks to ensure that where restrictive practices are used, they are done so as a last resort. The Reviewers contend that greater consideration should have been given to assessing the need for this type of intervention.

This was a missed opportunity

Ultimately, interpretation of legislation is a matter for the courts, acknowledged in a note appended to the minutes of the meeting. However, the Reviewers are of the opinion that the above referenced national guidance on when and to what degree restrictive practice should be used is clear.

In concluding that no further action could be taken, LA1 C&FS Senior Manager LADO, the Chair, stated that *'this is the length of our capacity to action.... it will be the responsibility of the governing body...to deal with matters thoroughly'*. He added that failure by them will draw attention from Estyn during their inspections. Specifically, it was recommended that the Chair of Governors review the incident, their governance

¹⁸ <https://www.gov.wales/reducing-restrictive-practices-framework-html>

and compliance around the school's Reasonable Force Policy, and the requirement for staff training. This should include further training for Foden.

A further recommendation required LA1 Ed to consider staff use of phones to film such incidents and the need for a country-wide review of the use of reasonable force. This was in contrast LA1 C&FS Senior Manager LADO recommendation a month earlier in concluding matters relating to Child J, and points to an acknowledged lack of clarity which would have impacted on the decision reached, and potentially the assessment of the ongoing risk to children posed by Foden and by his male Core SMT staff.

A broader recommendation made by the Chair, LA1 C&FS Senior Manager LADO, was that the wording of procedures about the threshold of being considered unsuitable to work with children required careful consideration, although he did not allocate this action to a specific person or agency.

LA1 C&FS Senior Manager LADO sent a letter to Foden and the Chair of Governors laying out their findings. In his response Foden did not agree that any of the concerns were justified. This should have raised concerns and heightened focus on the need to monitor Foden's behaviours going forward but did not do so.

No alternative disciplinary process was discussed despite the strength of feeling about the disproportionality of Foden's response to the incident, and regardless of it not meeting Section 5 thresholds. Legal advice could have been of assistance in this process, especially in light of Child I's ALN.

This was a missed opportunity

There is no record of a response from the Chair of Governors or of any further action in response to the recommendations made to the Governing Body, or of any subsequent monitoring. Records of the Section 5 Professional Strategy Meeting show that the Chair of Governors did not attend, nor would he have been aware of this investigation at the time, or of parallel proceedings and complaints about other, similar incidents involving Foden. As Foden was the Headteacher the Chair of Governors should have been informed about and involved in all such meetings.

It should also be noted that at this time, and in this information vacuum, the Chair of Governors acted alone with questionable authority to do so (see Theme 5: Governance and Complaints), in overturning a recommendation by LA1 Director C&FS, LA1 Head of Education 1, LA1 Head C&FS, LA1 Former Corp Dir, LA1 Legal that Foden should be suspended pending the outcome of the current investigation. The Chair of Governors acted on his personal view that '*the incident didn't really amount to anything*', discussions with LA1 Head of Education 1 who had only '*seen a clip*' of the video, and Foden. Foden in turn drafted a letter for the Chair of Governors to send LA1 Head of Education 1 in his own name, laying out the Governing Body's preferred disciplinary option.

In addition to the documented cases of restraint shared with the Reviewers, the Review has since seen email correspondence and heard from parents in relation to other cases of restraint in Ysgol Friars. One case in particular gives cause for significant concern in its demonstration of the culture of the school and SMT towards such incidents, the impact that had on other staff in the school, the lack of or ignorance of Whistleblowing procedures as well as a lack of scrutiny by LA1. The evidence is based on emails shared in December 2021 between Foden, Core SMT 1 and DSP 2, their respective union representatives and LA1 Head of Education 1 and LA1 Ed3, with involvement of LA1 C&FS in these discussions.

The Review has seen evidence of a shared understanding amongst the SMT that decisions on making referrals to LA1 C&FS where staff have used restrictive practice on pupils were Foden's to make, as Headteacher. This understanding was based on Foden's manipulated, shared interpretation of ambiguities in guidance and policy. The policies were adopted *de facto* by the Core SMT and in turn, applied in their own restraints on pupils (by Core SMT 1 and DSP 2). The Review has seen evidence of discontent among these individuals when such matters were found to have been discussed among LA1 Head of Education 1 and LA1 Ed3 without their involvement.

This was the case when a pupil was restrained by Core SMT 1 and DSP 2 and caused alarm among other school staff who did not feel they could raise their concern through Ysgol Friars' safeguarding routes, as laid out in school policy, owing to those responsible for safeguarding in Ysgol Friars being both perpetrators and supporters of the behaviour in question. Instead, the member of staff raised it with their line manager who, in turn, reported these concerns to LA1 Ed3. The staff member expressing concern was advised to make a referral to the school Safeguarding team, despite the school DSP being the perpetrator of the concerning behaviour in question. The original concern '*lacked detail and gave a second-hand account*' resulting in LA1 Ed3 seeking further clarification. Ultimately LA1 Ed3 determined that the concern did not warrant a referral to LA1 C&FS and handed the case back to Foden for internal resolution, stating that this action was in line with school policy.

The Reviewers have seen extensive communication between LA1 Head of Education 1, Foden, those accused of this inappropriate use of restraint and their union representatives in trying to establish which member of staff raised concerns in the first place. In these emails, the teachers who had raised the alarm outside Ysgol Friars' processes were named. No consideration appears to have been given to the need to treat this matter with Whistleblowing confidentiality. A union representative of one of the accused staff members stated in a letter to their member, Core SMT 1, regarding the restraint allegation, that they '*presume [Foden] is not raising this as a disciplinary concern*'.

The Review has seen an email written by Foden stating

'I have no intention of taking any action internally as, having read the restraint reports, there has been no inappropriate conduct by staff in the school'.

This decision would have exacerbated a general mistrust among staff, further enabling and *justifying* in their view, the use of restraint by Foden and close male SMT

colleagues, whilst at the same time disempowering other staff who wished to intervene or raise the alarm. This also demonstrates a clear failure to recognise a need to implement Whistleblowing procedures.

At no point in this correspondence was there any mention made of the pupil or concern expressed for their welfare, providing clear evidence that Ysgol Friars' policy and its application prioritised protecting its own staff over the welfare of its pupils. In the Ysgol Friars Pupil Conduct Policy, for incidents of restraint, staff are encouraged to report incident details to their union representative rather than to complete an HS11 form and submit it to the Local Authority, an expectation set out in LA1's exemplar policy.

In 2015 the governance of the use of reasonable force and the interface with child protection procedures in LA1 Ed was identified as requiring attention. An internal report was duly commissioned, made recommendations, and was accepted by the Corporate Safeguarding Panel as part of its work plan. Actions relating to the Education Service were accepted by the LA1 Head of Education at the time. Falling outside of the Terms of Reference for this Review, the Reviewers have not seen this report but are clear that there remains a need to address gaps in the governance of restrictive practices.

Complying with county and national guidance in these matters should be a matter of quality assurance for corporate safeguarding arrangements. It is difficult to understand why a Governing Body would choose to oversee such deviation from such stringent guidance, and why this was not addressed by the Local Authority.

Theme 5: Governance and Complaints

During the time under Review, the Governing Body was chaired on a voluntary basis by an individual who was employed as Chief Inspector (CI) in NWP. He had been on the Governing Body since 2007, and Chair of Governors from 2016. The Vice Chair Gov 2 voluntary post was held by a Police Constable (PC) in NWP, and the Governing Body was under an established leadership. Some Governors felt that decisions were made by Foden, the Chair of Governors and Gov 2 together and then simply rubber stamped by the Governing Body. The Reviewers challenge that view. The Reviewers contend that decisions were made by Foden alone.

Foden publicly capitalised on the status of having two NWP Officers as Governors to approve his decisions, although acknowledged to the CPR Chair that they required his '*prompting*' in their decision making. This dependency gave Foden control over his employer. The Reviewers have heard from previous Governors, one of whom, in challenging the *status quo* and raising issues of serious concern about the wider management of the school and its governance with the then Director of Education, under Whistleblowing procedures, felt that his continued involvement was made untenable by Foden very soon thereafter, to the point of feeling forced off the Governing Body.

An independent 'Critical Companion' employed by the LEA to sit with, train and oversee operations of the Governing Body in 2020 found it to be largely operating under the direction of Foden. Evidence seen and heard by Reviewers support this view, with many decisions being made prior to Governing Body meetings, policies drawn up and amended by Foden, little meaningful challenge raised by members and challenges largely dismissed or overridden. There was a sense that members were either on board or not welcome. The Review has seen numerous examples of Foden having drafted letters for the Chair of Governors to send in their own name on matters that should not have involved discussion with Foden in the first place. There is evidence that the Chair of Governors had relied heavily on information and directives from Foden and the Core SMT, and that Foden had even been commissioned by the Chair of Governors to compile a Governors report on their behalf.

The Review has heard that there was a disproportionately high attendance at Governor meetings by senior management of Ysgol Friars, individuals referred to as the Core SMT, a peer-group of three, regarded by many staff to have been hand-picked by Foden and thus influential and difficult to challenge. Appointments were often made informally, and there was a tight working arrangement between Chair of Governors, Gov 2 and Foden.

A school's Governing Body has a statutory duty to establish effective policies and procedures around statutory areas of Complaints & Grievances, Pupil Discipline and Exclusions, Safeguarding and Child Protection, and to ensure their effective execution. LA1 provides exemplar policies which can be used or adapted for use by schools. LA1 also had officers available to schools seeking further advice about procedures and their application. The Chair of Governors has no power to act on the Governing Body's behalf without specific, prior written agreement by the Body, and only in rare circumstances where a delay, in order to convene a Governing Body meeting, would cause serious detriment to the interests of the school (Welsh Government publication on *Governing Body Procedures 2021*¹⁹). The Review has evidenced that key decisions were made outside of this arrangement, in discussion with Foden, and accepted unchallenged.

A Local Authority should satisfy itself that the school has adequate policies in place and maintain oversight that a school has followed its procedure to safeguard and promote the well-being of children. LA1 was aware that the school operated under its own policies which, at times, deviated significantly from LA1's exemplar policies and those of the Welsh Government. These included key omissions and additions in some areas that do not appear to have been challenged but were often quoted by LA1 C&FS Senior Manager LADO as Foden's defence, and accepted, during Section 5 Professional Strategy Meetings in consideration of concerns relating to Foden.

During investigations into restraint practices for example, Foden stated in his defence that he had followed policy and guidance. This was accepted at face value, without adequate external scrutiny, making it *'very difficult to argue that Foden's behaviour would make it inappropriate for him to work with children'*, with an onus put on Governors to *'deal with matters thoroughly'*. When questioned, Foden claimed that, as

¹⁹ <https://www.gov.wales/sites/default/files/publications/2021-10/2021-chapter-2-governing-bodies-their-powers-duties-and-relationships.pdf>

a school, they used Local Authority policies which he then ‘*tweaked*’. Schools can choose to use the exemplar policies or not and are responsible for ensuring they are executed correctly, and Governors are responsible for ensuring their implementation. The DSP also plays a critical role in ensuring the safety and wellbeing of pupils and is responsible for ensuring policies and procedures are in place and are followed. Senior Local Authority Education officers must in turn satisfy themselves and the Authority that these policies are adequate and aligned with their own procedures.

In satisfying their responsibility for monitoring compliance, Governing Bodies should undertake an annual review of policies and procedures that includes consideration of how their responsibilities have been discharged. This would include monitoring of complaints handling and behaviours found lacking following implementation of Child Protection procedures. The Reviewers have seen no evidence of such monitoring.

Governors must know enough about safeguarding to be able to sufficiently challenge a school’s safeguarding policy and practice and satisfy themselves that safeguarding procedures are robust. The Governing Body at Ysgol Friars took reassurance from remarks made in Estyn’s 2017 Survey that:

‘The Governors have a solid understanding of the strengths of the school and areas for improvement. They provide an appropriate level of challenge and support for the school’

and quoted this when their competence was later challenged (see Complaints against Governors, below).

In respect of allegations of abuse made against a Headteacher, the Chair of Governors is responsible for liaising with statutory agencies and ensuring that due process is followed. This is covered in the Theme 2 Managing Allegations. The Chair of Governors was often not informed or involved in consideration of such allegations however, often only being alerted to a concern by receipt of a letter outlining outcomes of a Section 5 Meeting.

In April 2019 Core SMT 1 made a conscious decision not to inform Chair of Governors and Gov 2 about his concerns relating to Foden’s behaviour with respect to Child A as he felt there were sensitivities around their role as Governors and their profession. No attempt was made to involve an alternative member of the Governing Body with responsibility for safeguarding and Core SMT 1 took his concerns straight to the LA1 Ed1.

Guidance is clear that final responsibility for staffing and disciplinary matters regarding the Headteacher rests firmly with the Board of Governors of the school, who must also be mindful of any advice they receive from the Local Authority. The Chair of Governors, however, has no power to act on the Governing Body’s behalf without specific prior, written instruction, unless under extreme or urgent circumstances. Such circumstances must be agreed and minuted at a Governing Body meeting. The Review have seen no evidence of any such minuted instruction. In matters of concern relating to the Headteacher, such processes should be conducted independently of the Headteacher’s involvement.

The Review was made aware of two occasions where the Governing Body could have taken decisive action:

1. EWC/ICC: the disciplinary decision following the EWC guilty finding against Foden. September 2020
2. A recommendation made to Chair of Governors by Senior LA1 Officers that they should suspend Foden in November 2021

EWC/ICC Reports

In September 2017 a member of staff took their employer, Ysgol Friars, to an employment tribunal alleging unfair treatment. In January 2018 the tribunal ruled in their favour. In May 2018 the staff member lodged a formal complaint against the whole Governing Body of Ysgol Friars for the associated role they had played. An independent investigator was commissioned to carry out an investigation and in turn recommended a formal, independent review of the quality of Ysgol Friars' governance. In March 2019 LA1 commissioned an investigation by an Independent Complaints Panel (ICC), who considered the original complaints, but also took a line on School Governance, presenting their findings in June 2019 before the EWC concluded their investigation into this matter.

The ICC found that:

- *The Governing Body lacked an understanding of the issues in front of them and was overly dependent on the opinion of the Headteacher or Senior Staff.*
- *The Headteacher and Governing Body were unaware that the school website did not contain a list of Governor names and designated roles.*
- *Governors appeared to have a loose grip on matters of governance.*

The ICC recommended that

'unless significant and decisive action was taken in response to the report by the end of the Autumn Term 2019, the LEA should issue a warning notice to the Governing Body in accordance with its powers of intervention under the School Standards and Organisation (Wales) Act 2013²⁰ and the issued Welsh Government Guidance 222/2017²¹'.

LA1 Head of Education 1 and 'the [Local] Authority' agreed the need to make sure that the recommendations were followed up within this timeframe and offered LA assistance to the school if required. This explicit expectation was shared by LA1 Head of Education 1 with Foden and the Chair of Governors. It was made very clear that meeting this deadline would negate the need for further intervention.

²⁰ <https://www.legislation.gov.uk/anaw/2013/1/contents>

²¹ <https://www.gov.wales/sites/default/files/publications/2018-03/schools-causing-concern-statutory-guidance-for-schools-and-local-authorities.pdf>

Following the EWC's Autumn 2020 finding, there had been a 2-year period during which it was widely known that Foden had been found guilty of Professional Misconduct in relation to a staff member of Ysgol Friars but remained employed as a Headteacher by LA1. The Reviewers are aware that a Councillor had made several enquiries to LA1 Ed regarding any actions that had or would be taken in light of this finding but had not been told of any. The Councillor continued to contact LA1 Ed, representing a number of constituents who had expressed the same dismay that nothing appeared to have been done, and no sanctions imposed on Foden as a result of the EWC finding.

Reluctantly, and under pressure from LA1 Head of Education 1, Foden, the Chair of Governors and Governor 2 accepted recommendations in the Report and began to draw up an action plan. This was finally sent to LA1 Head of Education 1 in late October 2019 close to the deadline set by the ICC and LA1. This action plan would see a Critical Companion appointed by the LEA to sit on the Governing Body and provide training to Foden and members of the Governing Body and oversee updates to Ysgol Friars website to include details of the full Governing Body by name and role. Additional actions in this plan related to employment and disciplinary considerations and actions that should be taken by the Governing Body in the event of the EWC investigation finding Foden, their employee, guilty of unacceptable professional conduct.

Records of the next Governors' meeting, 15 July 2019 demonstrate Foden, the Chair of Governors and Gov 2's overall dismissive view of the ICC report findings – stating that they believed they had good understanding and were in control of the issues raised, reflecting that *'the Estyn report [found] contrary to the points contained in the report.'* Records also state that Foden explained to the Governing Body that, if found guilty by the EWC, *'the case would have to come back to the Governing Body and make a decision on whether any action should be taken against [Foden]'*. This was repeated in notes following a Governors' meeting on 21 October 2019.

In September 2020 the EWC found Foden guilty of Professional Misconduct and issued, a two-year reprimand, which would end in September 2022. In light of the EWC's guilty finding, LA1 HR's advice to LA1 Head of Education 1, expressed in turn by him in a letter to the Chair of Governors, asked the Chair of Governors to consider whether:

- Formal procedures would be followed, or
- Informal procedures, with a submission of professional advice given to Foden

The second of these options was noted by LA1 HR and LA1 Head of Education 1 as being considered to be the appropriate response.

LA1 HR added in a note to LA1 Head of Education 1,

'I would like to point out, I am quoting the Discipline Policy/procedure we have approved for schools – I don't know if Ysgol Friars have accepted this policy in its entirety/modification or done something themselves.'

The Reviewers have seen no evidence of this having been considered further.

The Reviewers have however seen evidence in Foden's email exchanges on 28 September 2020 where he refers to a '*Friday evening chat*' between LA1 Head of Education 1 and Foden, regarding Foden's plan to send Chair of Governors his '*plan of action*'.

Foden claimed that during this apparently informal telephone conversation, LA1 Head of Education 1 made it clear that he '*didn't propose to take any action*' following the EWC guilty finding but wanted to be prepared. The CPR have seen no evidence that this was the case, but it was clear that no further action was taken when the EWC guilty finding came in.

Foden duly advised the Chair of Governors to email LA1 Head of Education 1, copying in the Critical Companion (who had been employed by the LA to sit on the Governing Body). In this email, the Chair of Governors was instructed by Foden to ask if the ICC recommendation for a hearing by Disciplinary sub-Committee (formal procedures) had to happen, and if not, stated that as the Chair of Governors, he '*could legitimately decide to take no further action*'.

Foden in his advice to the Chair of Governors on what this email should contain, goes on to describe the vast body of evidence that the Chair of Governors would have to assemble should he decide on the first of the two options i.e. formal action. Foden reassured the Chair of Governors, that in the event of the Union objecting to the decision made (assuming the Chair of Governors opts to proceed by way of informal procedures) that the Union's grounds for complaint could summarily be dismissed, with Foden proceeding to list possible scenarios and the grounds the Chair of Governors could use for dismissing each in turn.

An independent report, commissioned by LA1 has recently [July 2025], been published, the author of which evidently had not been aware of the informal Friday night chat, nor of Foden's close involvement in the drafting of the letter regarding the choice of which disciplinary processes would be followed in light of the EWC finding of guilt.

By 15 October 2020, the Chair of Governors had received a response to the email composed and sent to LA1 Head of Education 1 and the Critical Companion, as instructed by Foden.

The Chair of Governors, in breach of confidence, immediately shared the response with Foden by email, adding '*FYI only and in CONFIDENCE*', that '***We can discuss later (soon), come up with an action plan and move on***' (emphasis as in original email).

Confidences were breached in sharing of the various emails which outlined the disciplinary options for dealing with Foden. Foden himself was involved, if not

instrumental in, orchestrating key discussions, even in the Chair of Governor asking LA1 Head of Education 1 if there was a third option- '*to do nothing*'. LA1 Head of Education 1 said this was not favoured.

Another meeting was held on 6 November 2020 between the Chair of Governors, Gov 2 and Foden to discuss these matters. Cyngor Gwynedd HR and LA1 Head of Education 1 were not aware of this meeting at the time. It transpired from having later seen these minutes that they include, somewhat misleadingly, that

'The LA have been consulted prior to the meeting about our proposed course of action and the outcome of the meeting and supports our approach and decision. No action will be taken against [Foden] and the matter is now closed.'

This conclusion contradicts a recommendation in the ICC report that the matter should be considered by a Disciplinary sub-Committee through formal procedures, and of there having been an expectation by LA1 HR and LA1 Head of Education 1 that professional guidance would be given to Foden, that a period of monitoring would follow and a warning that '*if similar happen[ed] again, we'd need to consider more stringent steps*'.

Governors had in fact taken no action on the LA's offer of support or guidance and there is no documented evidence that they discussed monitoring progress against the action plan. LA1 HR acknowledged the poor relationship between Ysgol Friars and '*the County*' as they were known to be referred to.

There are worrying gaps in the Governing Body's meeting minutes about what was shared, with who and when. It could be surmised that key content and information was not shared with the Governing Body, contravening an expectation on them to have done so in the interests of transparency and accountability, and that the decision was based solely on a three-way conversation between Foden, the Chair of Governors and Gov 2, despite Foden's earlier explanation to the Governing Body that if found guilty by the EWC, '*...the case would have to come back to the Governing Body and make a decision on whether any action should be taken*'. This does not appear to have happened, neither have the Reviewers seen evidence that the other governors were aware of or challenged this. The matter does not appear on Governing Body agendas thereafter.

The Governing Body went against a recommendation in EWC and ICC reports and in their own action plan in concluding matters outside of formal disciplinary procedures, which would have been held before a Disciplinary Hearing panel. Instead, matters were concluded between Foden, the Chair of Governors and Gov 2. They also defied LA1 HR and Education in **not** issuing Foden with professional advice as had been provided in outline by LA1 in the event of concluding matters outside of formal procedures.

In reporting back to the LEA following a fixed period employed as Critical Companion on the Governing Body of Ysgol Friars, it was shared that:

- Governors *'put a lot upon the Local Authority – they did not seem to understand the responsibility they had as a Governing Body – the LA was not the body responsible, the Governing Body was.*
- The *[Governing Body]* are still very much a Headteacher led group.
- The Governing Body were reluctant to intervene in any way. *[Foden]'s a strong character and they tended to bow to his judgment*
- Despite having placed a clear expectation on the group tasked with pulling together improvement actions for the Governing Body to review and monitor progress, the Group was yet to be appointed *[when I left]* and I didn't see any evidence that it had been pulled together. Actions remained outstanding when I revisited by report in July 2021

Monitoring the Governor's action plan has evidently not been robust; the most obvious visible sign being that Governor details on the school website were still incorrect even during the course of this Review, four years after the observations listed above were made.

Training in matters of governance was either ignored or inadequate, evidenced by poor compliance with some school policies, and in that policies are still not adequate or consistent with requirements set out by LA1 and The Welsh Government.

Without having seen the evidence, the Reviewers cannot comment on the mechanism put in place to monitor the outcomes of the action plan, but it appears that not all actions were completed in spite of the expectations placed on the school.

This was a missed opportunity

Suspension

In a meeting held on 12 November 2021 Senior Local Authority Officers, C&FS 1, LA1 Head of Education 1, Corporate Services, C&FS 2- agreed that Foden should be suspended pending the outcome of an ongoing investigation into the restraint of Child I. These officers were surprised that Chair of Governors had not already done so, based on the *Suspension Policy, Part 7, LA1 Governors handbook* (has since been removed from internet). LA1 Head of Education 1 communicated this decision to the Chair of Governors. The Chair of Governors appears to have then acted unilaterally in deciding not to suspend Foden but instead, on 15 November 2021, instructed him to work from home. A decision on the suspension of a Headteacher would usually be a decision for the whole Governing Body.

During the Chair of Governors' subsequent investigation into this matter, there was extensive email communication between Foden, DSP 2 and the Chair of Governors relating to the allegation of unreasonable force having been used in the restraint of Child I. It was established that Foden's safeguarding training was not up to date and that the associated MAPA guidance (see appendix 1), in Foden's words, did *'not*

advise refraining from restraining autistic pupils'. This discussion did not consider the overarching principles stated in national and regional guidance, and guidance in the *Equalities Act 2010*²² to the contrary.

The Reviewers have evidence from email exchanges between DSP 2 and Foden that his attitude to this training was that *'it was of such limited use and relevance in a secondary school that [he] did not repeat it'*. When interviewed for this Review by the CPR Chair, Foden noted that some of the training was in Welsh with limited translation and in his opinion, was not understood by staff. This view was also expressed by a former Governor.

DSP 2 also stated in correspondence with the Chair of Governors that the methods used in restraint were *'absolutely in keeping with the school policy and advice'* despite it having breached the policy requirement that staff should **not** (emphasis used in school Pupil Conduct Policy document) *'hold[ing] a pupil in a way as to restrict the ability to breathe'*. Foden is considered to have done this. DSP 2 also provided the Chair of Governors with an incomplete, thereby dishonest, account of the restraint methods used, along with assurances that no lasting emotional harm was done despite there having been no welfare checks carried out on Child I. Even though the parent requested ongoing support for her child in line with the requirement outlined in national guidance following such restraint incidents, this was not forthcoming and was found to be absent from the school's Pupil Conduct and Child Protection policies.

In conclusion, following the Chair of Governor's reflection on matters relating to the incident, he sent LA1 Head of Education 1 a letter, drafted for him by Foden, defending Foden's actions, point by point, and quoting in this letter additional, unscrutinised information on restraint guidance received from DSP 2. In the letter the Chair of Governors stated that he was *'convinced that [Foden] posed no risk to any pupils...'* nor that there were any *'...safeguarding issues'* and that it was therefore appropriate for Foden to return to work in the school. The Chair of Governors sent Foden an email within a week of requesting he works from home, stating that restraints were now lifted, and that he was free to return to Ysgol Friars *'tomorrow'*, (22 November 2021).

In coming to this decision, the Chair of Governors had considered incomplete and incorrect information relating to the restraint of Child I by Foden. In so doing, he overrode decisive advice from LA1 Director C&FS, LA1 Head of Education 1, LA1 Head C&FS, LA1 Former Corp Dir, LA1 Legal who had based their recommendation on significantly more detail than had been available to the Chair of Governors. *Keeping Learners Safe, 2022*²³ states that

'While governing bodies have a role in exercising their disciplinary functions in respect of child protection allegations against a member of staff, they do not have a role in the consideration of individual cases'.

The Chair of Governors had indeed considered this matter in light of inadequate and incorrect information that had been provided to him on an individual case. Reviewers

²² <https://www.legislation.gov.uk/ukpga/2010/15/contents>

²³ <https://www.gov.wales/keeping-learners-safe>

argue that there should not have been scope for a Chair of Governors to come to a decision on an individual basis equipped with an inadequate, unscrutinised set of facts. Such a significant decision should require a full, transparent consultation armed with as full and correct a set of facts as was available at the time. This key decision should not have been allowed to happen.

This was a missed opportunity

Critically, and in addition to the above, the Chair of Governor's decision was based on the incorrect assumption that '*there [had] been no further similar incidents involving [Foden]*'. This was factually incorrect. Had LA1 Head of Education 1 or LA1 C&FS Senior Manager LADO informed the Chair of Governors of the two other restraint cases that were being investigated at the time or had the Chair of Governors been notified of these allegations against the Headteacher at the time they arose, he would have been in a position to have made an informed decision. The Chair of Governors should also have been made aware of the ongoing investigation into Foden's conduct with Child G.

All of these incidents and investigations were taking place within the two-year reprimand period that followed the EWC having found Foden guilty of professional misconduct in relation to a staff member. The Chair of Governors also made his decision not to suspend Foden almost two months prior to the conclusion of the formal LA1 C&FS investigation into the Child I case.

Foden's ultimate reluctance to accept the conclusion and recommended actions following the conclusion of the Section 5 Professional Strategy Meeting on the restraint of Child I should have put a sharp focus on his behaviour going forward but appears not to have done so as the Review has seen no evidence of Chair of Governors having acted on the recommendations or of implementing any monitoring of actions or expectations.

Other Complaints

Welsh Government guidance states that complaints can be brought to a Governor of the school by anyone with an interest in the school and relate to a school and its provision of facilities, but that the Headteacher is ultimately responsible for the day-to-day management of a school. The Governing Body is required by law to consider formal complaints, including those made about a Headteacher's decision or complaints made against a Headteacher. The Governor's role is to explain and direct a complainant to the complaints Policy, and if necessary to refer back to the Headteacher to solve the problem - unless the subject of the complaint is the Headteacher.

If unresolved, the Chair of Governors can refer the matter to a Panel of Governors for consideration (with Local Authority help to ensure impartiality), inviting the complainant to the panel is usual practice. Governors must show regard to Welsh Government

guidance in establishing their own procedures. Ysgol Friars' Complaints Policy deviates significantly from that of the Welsh Government (discussed in Theme 4: Restraint Processes).

The LA1 Governors Handbook (no longer in use) does not extend to include provision for failure to resolve complaints and is inconsistent with Welsh Government policy in regard to how to proceed if complaints are not resolved by a Governor Complaints Panel. The Chair of Governors- or another member of the Governing Body chosen by him- should investigate complaints about the Headteacher, unless relating to matters that fall under other procedures.

When checked by Reviewers in June 2025, Ysgol Friars website showed a Complaints Policy that was out of date, contained names of staff who left over 2 years ago, referred to the Headteacher as 'He' (despite the current Headteacher being female) and contained some sections edited with strike through as though in draft form. A timescale of 10 days is suggested for raising a complaint which will be dealt with informally through the:

- Head of Year (stage A),
- Formally (stage B) with the School Complaints Officer (an additional stage, relative to that advised in national guidance, and notes that a '*complaint dealt with by the Headteacher (stage C) is going to seem very serious and may, therefore not be easy to solve informally*'),
- or, failing resolution through A and B, through C, with the Headteacher who will seek to respond within 10 days.
- A fourth stage outlined in Ysgol Friars Complaints Policy would require a complaint to be passed on to the Governing Body who should acknowledge receipt of the complaint within 5 days and schedule a resolution meeting within 15 days. The headteacher is permitted to also attend this meeting in contravention of National Guidance, and at a risk to impartiality. This guidance states '*The headteacher should not be a member of the complaints committee because of prior involvement*'.

The Reviewers are aware that Ysgol Friars routinely breached their own complaints policy. Complaints procedures were not always followed nor responses to complaints made within the agreed timeframe, and some were ignored altogether. Complaints directed to the Governing Body but delivered via the school (in the absence of Governor details being available on Ysgol Friars website) were not always passed on to Governors. Recording of complaints by Ysgol Friars is poor and inconsistent.

Where complainants were dissatisfied by Ysgol Friars' response to a complaint and escalated their complaint to the Governors and LA1 some were dismissed as being vexatious or '*scattergun*' in their approach. Complainants were told that future complaints from them would not be considered. This response was in line with the school's complaints policy, which lists 12 reasons why the School might dismiss a complaint or complainant. Where complaints were not resolved, complainants were not told what other options were open to them, as is a requirement of national guidance.

Child Protection Policy

Governors are responsible for ensuring that school policies and procedures are consistent with those of the Welsh Government guidance on all aspects of Child Protection, including dealing with allegations of abuse made against staff. Ysgol Friars' Policy definition of abuse contained key omissions, most alarmingly around grooming behaviours.

In February 2021 Foden's response to DSP 2, when feeding back on his recent safeguarding training, was that LA1 training was incorrect, and Foden proceeded to instruct his SMT to act otherwise. In so doing, Foden overrode LA1 training guidance that had stated that all matters relating to Child Protection should be referred to Children's Services. Foden stated instead that such matters should be investigated by the Headteacher, placing the responsibility of whether or not to refer solely on himself (unless concerns related to him, in which case they should be directed to the Chair of Governors).

In listing the four instances which would require referral upon initial assessment, and why under some instances, a referral would not be necessary, Foden proceeded to list instances which would **not** require a referral, quoting the now repealed s.550A of the Education Act 1996. He relied heavily on sections of guidance which require subjective interpretation e.g. what amounts to reasonable force, inappropriate behaviour/ poor practice by a member of staff and how to define significant harm. In applying his own interpretation of guidance documents, Foden singularly awarded himself the authority to override the guidance on requirements to refer safeguarding concerns and undermined a culture of positive safeguarding. The consequences of this are discussed in Theme 4, Restrictive Practices.

Exclusions

Ysgol Friars is the largest Secondary school in LA1, representing approximately 25% of LA1's secondary pupils. Permanent exclusions in Ysgol Friars are consistently disproportionately high relative to the size of the school. Education data state that between 2017-2023 exclusions were the highest across the county, accounting for 31.7% of LA1 schools' permanent exclusions.

The law requires that the Governors' Discipline sub-committee must meet to consider long-term temporary exclusions (more than 15 school days in any one term²⁴) and to confirm permanent exclusions. Parents are invited to make representations at these hearings on behalf of the child. The Reviewers do not know if this policy is always

²⁴ <https://www.gov.wales/sites/default/files/publications/2019-11/exclusion-from-schools-pupil-referral-units.pdf>

followed but know the high exclusion rate at Ysgol Friars had been a point of contention with the Education Department for a number of years.

Of greater concern is the lack of data relating to the disproportionate number of pupils with ALN/ ADHD (Attention Deficit Hyperactivity Disorder) who have suffered at the application of the '*three strikes and you're out*' School Discipline Policy, and who have been '*encouraged to leave*' in order to '*protect their academic record*' and '*avoid having an exclusion against their name*', in so doing, and by definition, also protecting the school from being seen as having excessive exclusions.

The Reviewers have heard from pastoral staff at Ysgol Friars and in the LA1 Ed that some children were purposefully, repeatedly targeted and matters deliberately escalated by Foden and the Core SMT with a view to quickly meeting the threshold for exclusion. One staff contributor to the Review commented that '*Within a single day, their secondary education could be over.*'

Even following Foden's arrest, at a time when anxieties and confusion were heightened and support was needed in the school community, pupils were told by Core SMT 1 in assembly, whilst sharing an agreed Core SMT message, that they would be excluded if found to be talking about matters relating to the arrest. This was an inappropriate response to a community in shock and trauma.

The Review has heard and seen numerous instances of clear breaches of process, policy and procedures, where reporting of concerns has been mis-managed and has resulted not only in an increase in the risk posed to safeguarding pupils, but also distress caused to employees. During this process, the Reviewers have heard from staff who were unaware either of the existence of whistleblowing procedures or lacked the required knowledge about when and how Whistleblowing procedures could or should be invoked.

All members of staff should know how to and be able to raise concerns safely, without fear of repercussion or retribution, about any conduct or practice in school which they perceive to be improper or unsafe. All staff must have confidence that their concerns will be heard and handled properly. There is an urgent need to inform all staff about the option of whistleblowing where they feel, for whatever reason, compromised in raising these concerns through the usual safeguarding routes. Information is available in the Welsh Government's *Procedures for Whistleblowing in Schools and Model Policy guidance, 2007*²⁵.

Theme 6: Crisis Planning and Crisis Response

The response by Ysgol Friars and consequently LA1 C&FS and other statutory agencies to the disclosure made by Child D on 6 September 2023 highlighted the lack of a coordinated emergency or crisis response plan in either organisation.

²⁵ <https://www.gov.wales/sites/default/files/publications/2018-03/procedures-for-whistleblowing-in-schools-and-model-policy.pdf>

Senior leaders managing safeguarding in schools, other organisations, statutory services and the local authority need to have a clear brief, including a communication plan in place ahead of any crisis facing the school, including the abuse of children.

The priority response in a crisis should be to keep the child or children safe, and in order to do this staff need to be clear about their other roles, responsibilities and reporting lines. They need guidance on media management, particularly where a case involves a high-profile individual or group.

Care for victims must be trauma-informed and prioritised, but agencies must also recognise their duty of care to employees and understand that this duty will be ongoing and likely require additional resources, both human and financial.

When concerns were raised about Foden in 2019 the response was not formally coordinated and decisions about actions to be taken were not formally recorded. This has been a matter of ongoing discussion and debate throughout the course of the Review and without doubt exposed children to risk of further abuse by Foden. It has also left LA1 open to criticism from the media, community and school.

On 6 September 2023 there was again a lack of coordinated response from the agencies dealing with this matter. A careful analysis of actions taken on the day of the disclosure demonstrated the need for a process that is understood by all agencies, and which can be implemented quickly in the face of a crisis, as in this case, where many staff were in a state of shock.

At about 09:00 on 6 September 2023 Child D spoke to a member of pastoral staff at Ysgol Friars disclosing that she had been '*in a romantic relationship*' with Foden. She was later able to show evidence of sexualised messages on her mobile phone to the DDSP. Although Foden's details had been saved under a pseudonym, the phone number from which messages were sent was identified as being his. The content clearly indicated that a crime had been committed.

DSP 2 was not in school on the day of disclosure and the DDSP sought telephone advice from LA1 C&FS front desk describing the content of the messages. LA1 C&FS record that this was reported to them at around 10.45. The DDSP did not follow the school policy to alert LA1 Ed or the County Designated Officer for Safeguarding nor did they manage to establish contact with the Chair of Governors until early afternoon, despite having tried. It is thought that Core SMT 1 had contacted LA1 Head of Education 1, but this was not part of a co-ordinated response and there are no corresponding records.

When the DDSP contacted LA1 C&FS front desk DDSP was also still trying to keep Child D safe. Child D was hidden in a large cupboard on site for several hours. At the point of referral, the DDSP had not contacted NWP, was not asked by LA1 C&FS if they **had** called NWP and was not advised that they **should** call NWP immediately. Instead, the DDSP was asked to fill in the standard referral form and send copies of the WhatsApp messages that had been secured from Child D's phone. Whilst the referral form was being completed and Child D remained in the cupboard, Foden had tried to gain access to her but was physically blocked by the DDSP.

There had been no immediate risk assessment for Child D. Foden's access to school IT systems had not been blocked or frozen and hardware not secured. There had been no discussion of the possibility that Foden may not have been working alone, or that he may have other victims in the school who he could access during this period. Basic child protection procedures to keep the child safe, secure evidence, and contain the alleged perpetrator were not immediately followed by the school or LA1 C&FS causing added trauma to the victim/survivors.

LA1 C&FS receipt of the completed referral form 11:19, and accompanying evidence 11:55 triggered LA1 C&FS to advise the DDSP to telephone NWP which they did at 12:21. A Strategy Discussion was then held with NWP 12:54 resulting in the decision that NWP should attend the school. At 13:17 confirmation was recorded that NWP and LA1 C&FS had also held a s.47 Strategy Meeting. Foden had in the meantime been at the school and in his office. During this time, he was able to delete information from his electronic devices. This information was subsequently recovered by NWP.

Professionals who had received the disclosure were in shock and would have benefitted from a clear plan to follow. Their response was uncoordinated and inefficient.

Whilst the DDSP was referring the matter and speaking to LA1 C&FS, some information had reached LA1 Head of Education 1 who had been in a meeting of senior officers in LA1. At the end of the meeting, he asked officers to stay behind in order that he could appraise them of the situation at Ysgol Friars, and he confirmed that LA1 C&FS were aware and that the police were '*ar y ffordd*' -on the way.

There was no formal plan for SMT to follow and there is no record of who contacted the Chair of Governors (or when he was contacted) although it appeared that he was made aware of the situation ahead of any formal notification from LA1 Head of Education 1 or LA1 C&FS. It is not known whether he had become aware of the situation through his professional role in the NWP; LA1 C&FS Senior Manager LADO, who had been '*sighted*' on the issue was concerned that this was '*out of process*'.

When the DDSP contacted NWP at 12:21 the detail provided suggested that there was no immediate risk [to Child D] demonstrating a lack of understanding of risk and the impact on Child D of staying on site. In addition, the DDSP had indicated that Foden was unaware of the allegation. However, whilst Foden may not have had the details of the disclosure he had already tried to access Child D and failing that he was able to access IT equipment. This resulted in NWP recording '*There is no suggestion from the caller that there was immediate risk to necessitate an urgent response*'. However, the matter was escalated to NWP Silver Group at this time.

Plain clothes NWP attended the school at about 14:00 and Foden was arrested. Child D had remained hidden at the school throughout this period and continued to remain concealed on the school site even after Foden's arrest and until she was spoken to by professionals from LA1 C&FS and the police.

With no crisis management plan in place to respond to this situation, concerns about '*getting it wrong*', not following process, lack of transparent discussion between departments and politicisation of decision-making all played a part in drift and delay in

apprehending Foden. NWP and LA1 C&FS should have been deployed to the school immediately upon referral.

The Reviewers have seen no evidence of a clear or coordinated communication or support plan being put in place by either the School or LA1 Ed following Foden's arrest.

On 10 September 2023 the Core SMT sent a message (copied below) to all school staff advising them on how to respond to parents and pupils. This was not conducted in a trauma-informed manner and demonstrated little understanding of the impact the revelation of Foden's abuse of pupils would have on the wider school community.

Sent: 10 September 2023 21:17
To: [names redacted by Reviewers]
Subject: Message from SMT

Dear all,

We know this has been a very stressful and anxious time for you all and you are still struggling to process your emotions and reactions to the announcement on Friday. We will have three counsellors on site from Monday if any of you feel that you need to speak to someone. Please contact [x] and she will liaise with DDSP and the counselling team regarding appointments and see if [they] can organise cover to release you for any initial appointments. Core SMT's door are also always open. Alternatively, you can contact Medra, Education Mutual (the teacher sickness absence company) or Education Support (a specialist support service for all staff in education).

'On Monday we will be holding a series of assemblies with all year groups. They will be told where they can access counselling and support. They will be reassured that they are safe in school. However, they will be told that staff cannot talk about the case so they must not ask them about it. They will be reminded that if they do spread rumours on social media they could be excluded from school or interviewed by the police.'

'We suggest you use the following as a script if pupils are discussing it in class and proceed according to the usual school policy for not following a warning':

'I cannot talk about the case, now let's carry on with the lesson.'

If they persist:

'You were told in assembly that you cannot ask about the case. I cannot talk about the case. If you carry on asking or discussing the matter despite this warning, I will have to treat this as defiance, and you may be referred to senior management and you could be excluded.'

Thank you for all your support,

SMT

The email continued with the following

'Below is a transcript of the messages Core SMT 1 and DSP 2 will deliver in assembly':

Core SMT 1

'You may have seen or heard the news that Mr Foden was charged on Friday with very serious offences.

In law, a person is innocent unless they are proven guilty. That will be decided in the crown court in a few weeks or months' time.

The police are still investigating. Staff in school cannot talk about the case, so you must not ask them about it.

The school will continue to run normally. All the school rules still apply, including the one about not misusing modern technology.

You must not spread rumours or discuss the case in any way, especially on social media or in any messaging service. If you do you could be excluded from school and you may even be interviewed by the police as part of their investigation.

If you know anything that could help the police you should speak to your Head of Year, Head of Key Stage DSP 2 or to DDSP as soon as possible after this assembly. You can also speak to Core SMT 3

Friars is an excellent school. Last year our exam results made us the best comprehensive school in North Wales. This year they were every bit as good, if not better. That is down to you and your teachers and what you do in class and for homework. None of that will change.

DSP 2 will now remind you what you can do if you have been affected by this news'.

DSP 2

'Given the events that Core SMT 1 has described, we have not only arranged additional support for you in school but also wanted to remind you all of the support available in school already.

This week, we have arranged for three additional counsellors to attend school for staff and pupils. This is in addition to those available by appointment during the week. Pastoral and Child Protection staff are also available, and I will remind you about who they are in a moment. If you are particularly affected by events last week, please see your Head of Year (or equivalent) in the first instance and they will liaise with the office manager if it's felt that seeing a counsellor or member of the child protection team would be more

appropriate. During lessons, if you need support, ask your teacher to email your Head of Year.

I've included a few contact numbers for mental health support out of school as well and I will have this presentation displayed around school.

The Child Protection Team is as follows: I am the Safeguarding lead in school and X is the Deputy Safeguarding person. We are both available to see you at any time, if you or anyone you know is at risk of harm.'

On the 8 September 2023 a Wales Safeguarding Procedures Section 5 Professional Strategy Meeting was convened in regard to Foden. The Chair of Governors did not attend, nominating in his place DSP 2. This was not an appropriate substitution and should have been subject to discussion with the Vice Chair or other nominated member of the Governing Body in attendance.

On the 11 of September 2023 a meeting of senior officers of LA1 was convened (see page 28 for details).

A record of an extraordinary meeting of the Governing Body held on 14 September 2023 at the school noted that the press had become aware of the situation and that there were messages circulating on social media before a planned statement had been made.

Theme 7: Training and Curriculum

Welsh Government guidance *Keeping Learners Safe 2022*²⁶, states that all schools and colleges in Wales have a legal duty to protect and promote the well-being of children. This duty includes the requirement to appoint a DSP (Deputy Safeguarding Person) who has lead responsibility for managing child protection within the school.

It is a requirement of *Keeping Learners Safe 2022*, that the Headteacher must appoint a suitable number of DSPs and Deputies for their setting and ensure they have access to the required levels of training and support to undertake the role, including online safety training. The DSP need not be a teacher but must be a senior member of staff and should have equal status and access to the same training.

The Review identified (Theme 1- Impact of Status, Power and Culture) that Foden deliberately created a culture where the safeguarding and pastoral functions in place in Ysgol Friars were weak and staff depended on him for direction, advice and decision making.

Although there was an appropriate process in place for appointing staff to Ysgol Friars, Foden was able to dominate and control this process and recruit tactically and

²⁶ <https://www.gov.wales/keeping-learners-safe>

strategically according to perceived loyalty, malleability and weakness of potential candidates whilst simultaneously circumventing the input of other staff and Governors who might more usually be involved in the recruitment process. This would appear to be the circumstance under which DSP 2 was appointed. During the Review some SMT expressed that they had been surprised by some of the appointments made by Foden when more suitable candidates had been in the field and were not successful.

When Foden appointed DSP 2 he had not completed the required level of safeguarding training for the role. Foden also elevated the officer manager to DDSP although they were not on the senior leadership team, as would usually be a requirement of that position, or trained to an adequate level. Arguably, even with appropriate training and experience, the appointment of one DSP and one DDSP was insufficient for a school of 1400 pupils.

There was no record of training in the school despite *Keeping Learners Safe Guidance 2022* stating clearly that

*‘the DSP **must** keep a record of all staff training, including the dates, details of the provider and a record of staff attendance’*

and Core SMT 1 said he had not had Child Protection training other than the refresher delivered annually by the local Authority Designated Lead Officer of Safeguarding for Education.

Keeping Learners Safe 2022 also states that the local authority should ensure that the DSP, the designated governor for safeguarding and the Chair of Governors undertake training in inter-agency working that is provided by or to standards agreed by the SCB (in this case NWSB), as well as refresher training to keep their knowledge and skills up to date, in addition to basic safeguarding training. The Reviewers have not seen evidence of any training record kept in the school or by the local authority.

Foden was a skilled manipulator who, in addition to grooming victims, groomed the environment in which he worked, thus hiding his offending behaviour by offering ‘counselling’ and pastoral care to female pupils who were known to be vulnerable. Foden had no qualification or training to undertake this work other than his belief that ‘he was good at it’. A lack of staff training coupled with poor record keeping meant that Foden’s patterns of behaviour were not recognised and not recorded.

The lack of understanding of professional standards, safeguarding procedures and safeguarding training even at senior staff and officer levels is a key theme of the Review. Core SMT 1 and LA1 Head of Education 1 (the latter having previously been a Headteacher in the authority) each reported that they had not had safeguarding training commensurate with their roles. This notwithstanding, the long-standing requirement is that all staff have refresher training every two years and that this training should include how to recognise and respond to abuse and how to report concerns.

Foden himself refused to attend a safeguarding course that he anticipated '*wouldn't teach him anything new*'. Following the death of the DSP 1 there were reported gaps in safeguarding training. Foden's attitude when challenged on this by LA1 Designated Schools Safeguarding Lead was '*what do you have for my staff that I don't have and can't pass [on] to my staff?*' This challenge was not addressed at the time or training provided.

The Designated Schools Safeguarding Lead for Education (LA1 Ed3) should ensure that all schools are following statutory guidance, that teachers and school governors have all the training, support and advice they need and that all staff have up-to-date safeguarding training. It is stated in *Keeping Learners Safe 2022* that:

'the lead officer will know and support each school's DSP and designated safeguarding governor and ensure that all schools have policies and steps for dealing with issues, including allegations against staff and that schools do the right employment checks, including DBS checks'.

No member of staff in any agency or local authority department spoken to during the course of this Review referred to this role or the support they could offer and there is evidence that school policies diverged from the LA1 exemplar in such a way that enabled Foden to have control over the safeguarding process. There is no evidence of oversight of this from the LA1 senior officers in education.

In addition to lack of training, school staff's understanding of safeguarding responsibilities and procedures was based on a confounding mix of school policies that were inconsistent or contradictory to those produced by LA1 and Welsh Government. Moreover, as evidenced throughout this Review, Foden in any case openly flouted the policies that he himself had put in place.

Governor approval of school policies, including safeguarding, was also closely managed and directed by Foden who was perceived to be an expert in the field. Foden was able to wrong-foot his staff by making changes to policies which were not shared with staff until it became apparent that the policy had been breached – at which point an individual could be publicly disciplined by Foden.

Another theme identified by this Review was that school staff were not equipped to understand the *modus operandi* of sex offenders or recognise sex offender grooming. By assuming a lead pastoral role at the school Foden had placed himself in a position where he had a *prima facie* reason to hold 1:1 meetings with some of the most vulnerable pupils in the school under the guise of providing pastoral support. As a sophisticated offender Foden had successfully groomed the adults around him and excluded those who may have acted as protective factors for his victims. Foden had normalised his behaviours, operating in plain sight of his Core SLT, teaching and administrative staff and pupils. That he saw vulnerable female pupils alone in his room was an '*open secret*'.

Professionals working in Ysgol Friars and LA1 did not recognise Foden's grooming behaviours either, and where there were concerns about his interaction with pupils these were not viewed from the perspective of potential risk of harm to a child, but only through a lens of the potential for a child or children to make malicious or false allegations against Foden. Professionals, including those working at senior level and in specialist positions in a number of agencies, did not objectify Foden's behaviours or ask of themselves and each other reflective questions such as:

- *why is a male head of school accompanying a female child to medical appointments?*
- *does Foden have training to offer counselling?*
- *why is Foden only offering counselling 1:1 with vulnerable female pupils - why is he not offering counselling to vulnerable male pupils?*
- *how does the Headteacher of a large school have time to have so many 1:1 meetings with vulnerable female pupils?*
- *why is Foden flouting the rules - holding 1:1 meetings in his room, with the door shut, lights off and blinds down, and taking female pupils in his car?*

A lack of simple professional curiosity enabled Foden to continue his abuse in plain sight. This was a missed opportunity.

A further example is the description of Foden's interactions with Child F, reported first by the adults supporting her, and reiterated in her own description of his interactions. These have been described earlier in this Review and demonstrate the text-book grooming styles of sex offenders. However, even though Child F's own description of a hug from Foden was that it had made her feel uncomfortable. Child F was asked to demonstrate it, and the hug was subsequently dismissed as being '*not inappropriate*' by professionals who were assessing risk. The *pattern* of similar behaviours exhibited with a number of vulnerable female pupils (for example holding hands with children, Child G and Child F comments about an uncomfortable hug) was missed as was the clear unsuitability of an adult in a position of trust touching a child. The fact that each reported concern was treated in isolation, and without consideration of a wider context or pattern of behaviour only heightened the scale of the failure.

A working knowledge of the '*Finklehor Four Pre-conditions Model*' and being able to understand and recognise behaviours which may indicate that an adult is seeking to isolate and groom a child or children, is fundamental to reducing opportunities for adults such as Foden to sexually abuse children.

Curriculum

There is an indication that some of Foden's victims of sexual assault began to have some understanding that his behaviour towards them might amount to grooming. There was rumour and social media content to this effect and evidence that one of the victims/survivors had been searching for information on the internet using search terms relating to understanding grooming. Some victims/survivors had friends who warned them that Foden's behaviour was inappropriate, and one at least had a friend who encouraged them to speak to an adult. Education on grooming does not currently sit within the new Curriculum for Wales Framework, nor was it taught through the previous curriculum which is in the process of being phased out.

The *Curriculum for Wales Framework*²⁷ currently being rolled out across Wales (2022-2027) is determined nationally and includes both the curriculum requirements set out in legislation and a range of supporting, statutory guidance published under *Section 71 of the Curriculum and Assessment (Wales) Act, 2021*²⁸. The guidance is a clear statement of what is important in delivering a broad and balanced education to pupils across Wales. It is intended that schools design their own curriculum built around the Framework's requirements and tailored by each school to be relevant and engaging to their pupils, according to the context of their lives. A set of co-constructed materials is available as a resource for schools to use and adapt as required. These have been developed in Wales, by practitioners for working with young people, and is a process led by expertise and which is evidence based.

The Framework falls broadly into 6 areas of learning and experience, Health and Wellbeing being one of these, with Healthy Relationships falling into this area. This topic includes consideration that learners '*need to recognise when relationships are unhealthy and need to be aware of how to keep safe and seek support for themselves and others.*'

There is no specific remit within this to include teaching and learning around grooming behaviours. This must be addressed urgently, safely and effectively, and should rely on existing expertise. The Reviewers have spoken to The Centre of Expertise on Child Sexual Abuse (CSA Centre)- the UK's national agency focused on improving understanding and response to child sexual abuse. The aim of the Centre is to reduce the impact of child sexual abuse through improved prevention and better response, and it sits at the cutting edge of research in this area, and the Centre would be well placed and able to support the development of such materials.

²⁷ <https://www.gov.wales/curriculum-wales-framework>

²⁸ <https://www.legislation.gov.uk/asc/2021/4/contents>

Improving Systems and Practice

In order to promote the learning from this case the Review identified the following actions for the Board and its member agencies and anticipated improvement outcomes:

Overview

All agencies must have regard to the sheer bravery required for a child to challenge a powerful abuser and be heard and believed.

The Recommendations of this Review have a relevance for all Schools, Local Authorities and Statutory Agencies working with children across Wales. Those organisations and agencies should reflect on and consider their practice in context of these findings.

Whilst the Review has reported its findings under thematic headings relating to the context of abuse in this school, the Recommendations set out below are cross-cutting and provide a framework for improvement which could be considered at national as well as local level.

The Recommendations are designed to be practical and achievable even though some may require changes to National guidance on safeguarding and school governance.

An overarching theme – listening to the Voice of the Child

This Review demonstrates that children's behaviour was not always viewed through a safeguarding lens by the professionals who worked with them, that they were not listened to when concerns were raised nor given a voice in the processes designed to keep them safe.

The Review recommends that

1. All organisations that work with children must ensure that their policies on listening to the voice of the child are reviewed, fully implemented and reflect the learning from this Review
2. Organisations must be able to evidence to their professional Board and Regulators that they have a mechanism for listening to children and that this is embedded and functioning
3. All agencies must ensure their staff are trained to identify and record behavioural changes in a child which may indicate that they are being groomed and/or abused

4. In schools these changes must be recorded on an electronic data management system
5. When a referral is made under Wales Safeguarding Procedures Section 5, all safeguarding information on the child's records on the data management system must be taken into consideration when assessing risk and vulnerability
6. When a referral is made under Wales Safeguarding Procedures Section 5 and is third party, the child who is subject of the referral must be spoken to by children's social care, even where they have not made a disclosure themselves
7. LA1 should consult with pupils to identify how best to provide access to an external individual or service, outside of school, to whom pupils can report concerns or worries. Contact details to be displayed prominently in all schools
8. Welsh Government develop the curriculum to ensure that pupils gain the knowledge to understand adult grooming behaviours and know how to report safely to an adult
9. All Local Authorities should evidence that they support and advocate for victims of trauma, on a case-by-case basis, where their access to education has been limited by their experience. This would include ensuring that victims have access to further and higher education and accompanying funds where grade requirements and attendance have not been met due to the trauma experienced

The management of allegations and concerns about adults who work with children - the multi-agency response

Section 5 arrangements

The *Wales Safeguarding Procedures 2019, Section 5*²⁹ are currently under review and out for consultation. The Welsh Government should ensure that the revision of Section 5 procedures is shaped by the learning from this Review and are stress-tested against this case.

The review has highlighted weaknesses in the system designed to safeguard children where there has been inconsistency in the application of

- threshold criteria for intervention,
- lack of a common understanding of 'suitability' to work with children and
- what is acceptable professional conduct of adults in a position of trust and power

This has left children at risk of abuse and harm.

The Review recommends that

²⁹ <https://www.safeguarding.wales/en/chi-i/chi-i-c5/>

10. The Welsh Government ensures that the revision of the Section 5 procedures is shaped by and takes account of the learning from this Review
11. The revised procedures make it a requirement that the voice of the child is heard, even where a child has not made a disclosure
12. It is a requirement that thresholds for invoking the procedures are decided at a multi-agency meeting and not solely by the LADO, and take into consideration previous concerns, complaints and allegations
13. Safeguarding Boards receive assurance that LADOs in their area have regular training and supervision
14. Safeguarding Boards require and scrutinise Local Authority reports on allegation management on at least an annual basis, and that reporting on allegations becomes part of the Estyn and CIW regulatory requirements.
15. Welsh Government consider requiring schools to develop an 'Adult Conduct of Concerns Policy' (known in England as a Low-level Concerns Policy') and consider producing guidance on safe working practice

Welsh Government will shortly publish its 10-year Strategy 2025 -2035 (consultation period ended October 2025) for the prevention of child sexual abuse (which builds on the National Action Plan for Preventing and Responding to CSA, July 2019). The Review identified systemic weaknesses which impacted on the effectiveness of inter-agency working to safeguard children.

The Review recommends that

16. The new Strategy is stress-tested against the findings of this review and that any learning is incorporated into the new strategy

The need for training - thinking the 'unthinkable' and understanding 'it could happen here'

The Review has highlighted that it simply did not occur to professional adults working with children that pupils were being sexually abused by the Headteacher at their school. There needs to be cultural shift in response to concerns about an individual working with children. The Review highlighted that in the established framework of safeguarding training there is limited focus on identifying abuse and the risk of harm from adults working in a position of trust in schools and other organisations. Foden was able to exploit gaps in the existing framework, relying on professionals' lack of understanding of the *modus operandi* of sex offenders and how they groom not only their victims but also the environment in which they work.

Professionals and volunteers working with children must be encouraged through training and professional development to '*think the unthinkable*' and to understand that '*it could happen here*'. Professionals must learn to approach concerns raised

through a culture and lens of ‘*what if I am right?*’ rather than ‘*what if I am wrong?*’ and understand the routes through which they can safely report their concerns to the Local Authority.

The Review recommends that

17. Welsh Government commission a training resource based on the findings of this Review for use by all schools in Wales. This should be adaptable for use by other agencies working with children
18. All school staff, volunteers (including administrative and facilities) and Governors receive training on the *modus operandi* of sex offenders and sex offender grooming using the Finklehor model
19. The safeguarding Boards are assured that this training is delivered to Local Authority personnel in Education, Children’s Services and Human Resources who lead on or respond to the management of concerns about adults working with children
20. The Safeguarding Board is assured that all Local Authorities have clear Whistleblowing policies which are publicised and can be used safely by all staff

The Governance of Schools in Wales

This Review has highlighted the weaknesses and inherent risks associated with the way in which schools are governed in Wales.

The Review recommends that

The Welsh Government initiates a review of the Governance arrangements in schools in Wales which

21. Clearly delineates Governor responsibilities to bring about a shift from a primary focus on financial management and results to one where safeguarding, health and wellbeing are seen as the proper foundation for learning and success
22. Supports the development and implementation of an easy-to-read dashboard of basic metrics to provide a measure of the wider health and culture of the school
23. Requires Governing Bodies to keep accurate records of decisions made regarding safeguarding matters which are reported to the Local Authority in particular where a decision has been made which does not follow Local Authority guidance
24. Ensures that Designated Safeguarding Persons and their deputies are subject to external supervision by qualified Social Workers from the relevant local authority

Restrictive Practices

The Review identified the excessive use of restrictive practices had become embedded in the culture of the school

The Review recommends that

25. The Welsh Government issues an addendum to the guidance on *Reducing Restrictive Practices Framework 2022* around the filming of incidents by adults, and on the appropriate retention of such filmed records

Crisis Management

Although rare, critical incidents of this nature require a strategic and coordinated response.

The Review has highlighted that in this case the School, Local Authority Children and Families Services and Education Services had neither single agency nor multi-agency coordinated plans in place to respond immediately to the critical incident in an effective, coordinated way.

The Review recommends that

26. Welsh Government is assured that all Local Authorities have in place a strategic critical incident plan which sets out the mechanism for an immediate and coordinated multi-agency response
 - a. The plan sets out arrangements for victim care, securing evidence and managing the alleged offender
 - b. The plan includes a formal protocol for information sharing with other Local Authorities which might be impacted
 - c. There is a strategic plan to locate accessible on-site support for both children and adults in organisations where there has been a significant traumatic incident
 - d. In a critical incident of this nature consideration is given to seconding a social worker to work with the police investigation team to ensure that evidence and information are viewed through a safeguarding as well as criminal lens

Recommendations for the Safeguarding Partners



The Review recommends that

27. Betsi Cadwaladr University Health Board


- a. Considers the sharing of anonymised CAMHS data with Local Authorities to identify hotspots and thematic concerns
- b. Provide assurance to the Regional Safeguarding Children's Board that health professionals seek safeguarding advice when a child presents at an appointment accompanied by a third party without parental consent

Statement by Reviewer(s):

Statement of independence from the case Quality Assurance statement of qualification	Statement of independence from the case Quality Assurance statement of qualification
<p>I make the following statement that prior to my involvement with this learning review:</p> <ul style="list-style-type: none"> • I have not been directly concerned with the child or family or have given professional advice on the case. • I have had no immediate line management of the practitioner(s) involved. • I have the appropriate recognised qualifications, knowledge and experience and training to undertake the review. • The review was conducted appropriately and was rigorous in its analysis and evaluation of the issues as set out in the Terms of Reference. 	<p>I make the following statement that prior to my involvement with this learning review:</p> <ul style="list-style-type: none"> • I have not been directly concerned with the child or family or have given professional advice on the case. • I have had no immediate line management of the practitioner(s) involved. • I have the appropriate recognised qualifications, knowledge and experience and training to undertake the review. • The review was conducted appropriately and was rigorous in its analysis and evaluation of the issues as set out in the Terms of Reference.

<p>REVIEWER 1</p> <p>Name Jane Foster (Sarre)</p> <p>Signature</p>  <p>Date 28.08.2025</p>	<p>REVIEWER 2</p> <p>Name Anna Henderson</p> <p>Signature</p>  <p>Date 28.08.2025</p>
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<p>Chair of Review Panel</p> <p>Name Jan Pickles OBE</p> <p>Signature</p>  <p>Date 28.08.2025</p>
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Appendix 1: Terms of reference

Appendix 2: Summary timeline

- The process followed by the Board and the services represented on the Review Panel
- A learning event was held and the services that attended
- Victims/ survivors and the family members they have identified have been informed, their views sought and represented throughout the learning event and feedback had been provided to them.

For Welsh Government use only

Date information received Date acknowledgment letter sent to Board
Chair Date circulated to relevant inspectorates/Policy Leads
.....

Agencies

CSSIW
Estyn
HIW
HMI Constabulary HMI Probation

Reason

Appendix 1: Glossary

ABE	Refers to a set of guidelines and practices laid out in the Ministry of Justice publication 'Achieving best evidence in criminal proceedings, 2022', aimed at gathering the most reliable and comprehensive information from vulnerable witnesses, especially children, in criminal investigations. The core principle is to conduct interviews in a way that minimizes the risk of contamination, ensures accuracy, and maximizes the witness's ability to recall and communicate details about an event.
ADHD	Attention deficit hyperactivity disorder
ALN	Additional learning needs
CAMHS	Child and Adolescent Mental Health Services
CCTV	Closed Circuit Television
CID16	CID16, also known as the Vulnerability Assessment Form, is a combined assessment and referral form used by law enforcement in North Wales when dealing with incidents involving vulnerable individuals, particularly in cases of domestic abuse. It is a structured document used to gather relevant information, assess risk, and guide officers in providing immediate safeguarding interventions.
CLA	Child Looked After- A child who is "looked after" means they are in the care of a local authority or are being provided with accommodation by a local authority.
Core SMT	Core, senior management team of the school
CSA	Child Sexual Assault
DBS	Disclosure and Barring Service
DDSP	Deputy Designated Safeguarding Person
DSP	Designated Safeguarding Person
EWC	Independent, professional regulator for the education workforce in Wales
HR	Human Resources
HS11	Local Authority form for recording detail of restraint incidents & submitting to the Education department (in LA1).
ICC	Independent Complaints Committee (Panel)
IDP	Individual Development Plan
KS3/4	Key stage 3 – school years 7-9; Key Stage 4 - years 10-11
LADO	Local Authority Designated Officer. This role is part of the child safeguarding process and focuses on managing allegations of misconduct against individuals who work

	with children. The LADO's main responsibility is to oversee allegations to ensure they are handled fairly and appropriately, safeguarding the child's welfare while also protecting the rights of the individual accused.
LEA	Local Education Authority
MAPA	Management of Actual or Potential Aggression, a training program focused on equipping individuals with the skills to handle and de-escalate potentially aggressive or violent situations
MASH	Multi-Agency Safeguarding Hub, meetings are collaborative discussions involving various agencies to assess and address risks to vulnerable individuals, particularly children.
NEU	National Education Union
NSPCC	National Society for the Prevention of Cruelty to Children
NWSCB/ NWSB	North Wales Safeguarding (Children's) Board
Other SMT	Non-core SMT staff/Assistant Heads with supplementary responsibilities within the school
NWP	North Wales Police
Part 4 AWCPP (2008)	Part 4 of the All Wales Child Protection Procedures (AWCPP) 2008 focused on safeguarding allegations and concerns about practitioners and <u>has since been replaced</u> by new national guidance (see Section 5).
PoT	A position of trust refers to a role where an individual has direct contact with, and the ability to exercise authority or control over, children or vulnerable adults. These roles often involve caring, educating, or providing support and are frequently found in settings like social care, healthcare, education, and the justice system. Abuse of a position of trust is a serious offence, particularly when involving sexual activity with a minor, even if the minor is above the age of consent.
PSO	Police (School/ Community) Liaison Officer
SARC	Sexual Assault Referral Centre provides confidential, specialist support to anyone who has been raped, sexually assaulted, or abused.
SCB	Safeguarding Children's Board
Section 3 Strategy Discussion	A Section 3 Strategy Discussion falls within the All Wales Child Protection Procedures framework and is a meeting convened by social services following a report of potential significant harm to a child, intended to ensure that information is shared, to facilitate a decision on the next steps, and determine if a Section 47 enquiry (investigation) is needed to assess the child's safety.

Section 5	The Section 5 process of the <u>new</u> , 2020 All Wales Child Protection Procedures (AWCPP) addresses safeguarding allegations or concerns about practitioners and those in positions of trust (replaced earlier guidance- see Part 4).
Section 5 Professional Strategy Discussion/ Meeting	<p>A Section 5 Strategy Discussion is a process within the Wales Safeguarding Procedures that addresses concerns about practitioners and individuals in positions of trust who may be abusing or risking the harm of children or adults. This discussion involves key agencies, primarily the Police and Social Services, to assess information, determine the necessary actions, and decide on appropriate steps to protect the vulnerable, including informing the subject of the allegation and their representatives. The discussion also focuses on protecting other individuals who may be at risk and agreeing on how to share information about the process.</p> <p>A Professional Strategy Meeting is convened after an initial Professional Strategy Discussion has established that there are concerns about a practitioner or someone in a position of trust who works with children or adults at risk. This meeting aims to coordinate child, adult, and criminal procedures, share information, decide on protective actions, and plan any necessary investigations fairly and efficiently to safeguard vulnerable individuals.</p>
Section 47	Section 47 (s. 47) of the Children Act 1989 is a legal provision requiring local authorities to investigate if a child is suffering or likely to suffer significant harm. These investigations, known as Section 47 enquiries or Child Protections Enquiries, involve a single or more usually a multi-agency assessment by social services, police, and other bodies to determine what action is needed to safeguard the child's welfare. The process involves gathering information, assessing the risks, and potentially leading to family support, Child Protection Conferences or care proceedings.
SEN	Special educational needs
SMT	Senior Management Team
Suitability to work with Children	In the context of child protection refers to the assessment of an individual's fitness and capacity to work with children, ensuring they can create a safe and nurturing environment and uphold their safeguarding responsibilities. This assessment involves various checks and considerations to determine if the individual poses a risk to children's well-being.
ToR	Terms of Reference
WJEC	Welsh Joint Education Committee

Appendix 2: A reflection on the Clywch Inquiry Report recommendations

A theme of this Child Practice Review has been that recommendations in regard to Foden's interactions with pupils were either not followed, or where Foden was given words of advice or instruction his subsequent behaviours and adherence to the matters raised with him was not monitored.

Recommendations from the current Review have been compared with those of the Clywch Report published by Welsh Government in 2004, some twenty years ago. Whilst it is unlikely that, even had all of the Clywch recommendations been put in place at the time, this alone would have prevented Foden from offending. However, it may have made it more difficult for him to offend in plain sight and to get away with it.

This Review has considered carefully the recommendations contained in the Clywch Report and notes those of the Joint inspectorates' Review of Inter-agency Arrangements and Practice to Safeguard and Protect Children in Pembrokeshire (2011) and Southbank International School Serious Case Review (England 2014).

It is appalling that the Recommendations of this current Review reflect those of Clywch in particular, so closely, and that 20 years later key issues have still not been resolved or acted upon. It is imperative that the recommendations from this Review are fully embraced and delivered in an effective and timely way.

Clywch and the themed Recommendations in this Review

Extracted recommendations from the Clywch report are set out below under thematic headings and can be used as comparators for the recommendations emanating from this Review. Each extract begins with the paragraph reference from the published Clywch Report.

An Overarching Theme: Listening to the Voice of the Child:

In 2004 the Clywch Report recommended

9.18

I recommend that in any child protection investigation the wishes and views of the child about the conduct of the interview, including their wishes about the nature of the support they prefer, are always sensitively ascertained and recorded and form part of the interview planning process and that the All Wales Child Protection Procedures are amended accordingly within 12 months of the publication of this report.

21.2

I recommend that consideration always be given by the police to informing a

child of the outcome of a police investigation, taking great care to explain what has happened and that the All Wales Child Protection Procedures are amended accordingly, within 12 months of the publication of this report.

Theme 3: Reporting Concerns, Managing Allegations, Making referrals. Systems and Processes

In 2004 the Clywch Report recommended

21.7 – updating guidance

I recommend that the Welsh Assembly Government issue guidance within 12 months of the publication of this report on how allegations of child abuse made against teaching and non-teaching staff should be investigated. The guidance should consider the:

- (i) Joint NEOST /Teacher Union guidance on Education Staff and Child Protection: Staff Facing an Allegation of Abuse
- (ii) Practice Guide to Investigating Allegations of Abuse against a Professional or Carer in Relation to Looked After Children
- (iii) All Wales ACPC Child Protection Procedures.
- (iv) National Assembly for Wales Guidance 'Working Together to Safeguard Children'.

21.19 – review of procedures and specialist input

I recommend that the chairs of all ACPCs in Wales review existing procedures relating to Allegations Against Professionals to establish clear responses when dealing with such allegations within 6 months of publication of this report.

Policies, procedures and practice should be unambiguous, realistic and should not conflict with local or national agency procedures.

I recommend that the chairs of all ACPCs in Wales review existing procedures

21.8 – where an investigation is commenced, it should be undertaken by a specialist personnel officer of the local authority who should also present the case unless a solicitor or counsel is instructed

21.9 – inter-agency working

I recommend that the Welsh Assembly Government establish a task group within 6 months of the publication of this report, with representatives from all interested parties, charged with bringing forward a set of proposals to implement the recommendation I have made in respect of schools' disciplinary tribunals. The interested parties should include:

- (ii) governor representatives
- (iii) local education authority officials
- (iv) child protection and legal experts
- (v) children and young people
- (vi) General Teaching Council representatives
- (vii) Welsh Local Government Association

(viii) police.

Matters to be considered by the task group to include the threshold for referrals, appeals, tribunal rules, the interrelationship with police investigations and the recording of investigations on the files of teaching and non-teaching staff.

21.24 – record retention

I recommend that ACPC chairs ensure that the All Wales Child Protection Procedures are amended within 6 months of the publication of this report to give guidance on the retention and storage of documents which would allow for cases to be reviewed as appropriate over a long period.

Theme 3: Inter-Agency Working

Inter-agency working has changed dramatically over last 20 years and was not a specific theme in Clywch. However, the recommendations in Clywch that were directed at WJEC still have wider relevance, and at the time were cutting-edge.

Although guidance in the Wales Safeguarding Procedures for Children and Adults at risk of Abuse and Neglect, has now moved on from the position where it was assumed that agencies would work together to one where this is set out as a duty, it is evident from this Review that this still is not embedded consistently.

21.11 - referrals, roles and procedures

The policy and procedures should include reference to the following:

- (i) the National Assembly for Wales Guidance 'Working Together to Safeguard Children' and to the All Wales Child Protection Procedures
- (ii) referral to social services and the police
- (iii) sharing information
- (iv) recording and storage of information of child protection concerns
- (v) the need for and remit of a designated child protection coordinator role
- (vi) child protection training
- (vii) interrelationship between child protection investigations and disciplinary procedures
- (viii) monitoring and review of arrangements

Theme 5 Governance and complaints/ whistleblowing

In 2004 Clywch recommended

21.5 - governors

I recommend that the Welsh Assembly Government issues guidance within 6 months of the publication of this report which requires the governors of all schools, whether they be community, voluntary aided, voluntary controlled, foundation or independent schools and further education colleges to have a whistleblowing policy in place and that all teachers and non-teaching staff are

informed as to its operation.

21.6 - whistleblowing

I recommend that, on appointment in any school or further education college in Wales, every teacher and member or non-teaching staff should receive written and oral instruction on whistleblowing procedures and how to operate them. This should then be reinforced on a regular basis.

21.22 (iii) Governor training

[I recommend that] all Chief Executives and Directors of Education in Wales ... carry out an audit of all schools to identify the nominated governor for child protection. Once this information is established, a programme should be put in place to ensure that nominated governors have the opportunity to attend child protection training to include training in dealing with allegations against teaching and non-teaching staff. In addition, an opportunity to attend child protection training should be made available to all governors.

21.25 - complaints

I recommend that the Welsh Assembly Government's 'Guidance on Procedures for Dealing With Complaints to Governing Bodies' be amended to include clear and unambiguous guidance on the responsibilities of relevant parties if complaints raise child protection concerns.

21.26 – complaints procedures

I recommend that the Welsh Assembly Government's 'Guidance on Procedures for Dealing With Complaints to Governing Bodies' is amended to make it clear that the Children's Commissioner for Wales has powers, under the Care Standards Act 2000 and the Children's Commissioner for Wales Act 2001, to review complaints procedures in schools and to review individual cases.

21.27 – complaints involving pupils

The Welsh Assembly Government's 'Guidance on Procedures for Dealing with Complaints to Governing Bodies' shows an awareness of the difficulties in achieving sufficient independence in all stages of the investigative process of a complaint and in adjudication in schools,.....Nonetheless, I feel the arrangements proposed should, amended as I have suggested, be given the chance to be tested and therefore that they, together with 'Complaints Involving Pupils' should be issued as statutory guidance without delay

21.30 – advocacy for children

I recommend that the Welsh Assembly Government, within 3 months of the publication of this report, require all school governing bodies to ensure that children are informed in their school of the availability and purpose of relevant services, including ChildLine, the NSPCC Child Protection Helpline, social services, the Children's Commissioner for Wales and advocacy services

Theme 7: Training and Curriculum

In 2004 Clywch recommended

21.3 - teacher training re offenders

I recommend that the Welsh Assembly Government and the General Teaching Council for Wales and the DfES take steps to ensure that teachers receive specialist input in their professional qualifying training programme about the way in which abusers operate and that the findings of this report form part of that training, this recommendation to be implemented within 2 years of the publication of this report.

21.4 – local authority child protection training

I recommend that local education authorities and Area Child Protection Committees consider how induction, in-house and refresher training in child protection can be provided on a regular basis.

21.31 - curriculum

I recommend that ACCAC [former curriculum assessment body] within 12 months of the publication of this report review its Personal and Social Education Framework in light of my report and decide whether changes or additions need to be made.

21.22 – training and record keeping

I recommend that all Chief Executives and Directors of Education in Wales or their equivalents within 3 months of the publication of this report:

- (i) establish and maintain an authority wide database relating to all schools, stating the name of the designated liaison teacher for child protection, the level of training undertaken and the dates on which training was given
- (ii) develop and implement an action plan to ensure that all staff employed within education and Children's Services who are in direct contact with children and young people and those personnel with a policy/management role in relation to schools and the education service, are trained in child protection as appropriate to their duties

21.23 – pastoral care skills and support for children

I recommend that all Chief Executives and Directors of Education in Wales or their equivalents appoint a child protection coordinator within 6 months of the publication of this report with a specific responsibility for schools, to increase the capacity of local authorities to support and develop school related child protection issues. and young people in education including provision of appropriate support to children during disciplinary, child protection, complaints and exclusion processes within 12 months of the publication of this report.

This national strategy should also consider teachers' pastoral care skills, training and support and the respective roles within pastoral care of teaching staff, counsellors and educational welfare staff.

<https://safeguarding.wales/en/int-i/int-i-i1/i1-p1/>

<https://www.childcomwales.org.uk/wp-content/uploads/2016/04/Clywch.pdf>

<https://www.gov.wales/docs/cssiw/report/110811pemben.pdf>

[https://www.rbkc.gov.uk/pdf/Southbank%20SCR%20REPORT%2012%201%2016.p
df](https://www.rbkc.gov.uk/pdf/Southbank%20SCR%20REPORT%2012%201%2016.pdf)