



**Clackmannanshire  
Council**

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Comhairle Siorrachd  
Chlach Mhanann



# **Clackmannanshire Council Children & Families Social Work Services Child Protection Procedures**

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## Acknowledgements

Clackmannanshire Council are grateful for the permission given to use the West of Scotland Child Protection Procedures (2016) as a framework for the development of Clackmannanshire's Child Protection Procedures.

## Preface

Clackmannanshire Council are pleased to launch Clackmannanshire's Inter-Agency Child Protection Procedures. These procedures are intended for all workers within Social Services, including primarily, lead professionals, specifically, social workers, team managers and service managers to ensure there is clear operational guidance in fulfilling statutory obligations, and best practice working with vulnerable children and families. Fundamental to these procedures, and enshrined in policy, existing practice and statutory obligations, is the importance of acknowledging the critical role of our multi-agency partners in their work with us to protect Clackmannanshire's children. Put simply, we could not do this work without them; their daily contribution to promote the best possible outcomes for children and young people is acknowledged.

Clackmannanshire Local Outcome Improvement Plan (2017-2027) and Children's Services Plan (2017-2020) have set out our clear vision and priorities for Clackmannanshire's children. We want every child to experience a safe and happy childhood, to be resilient, thrive and flourish. When there are concerns about children, we shall work in partnership with families taking timely, proportionate action to ensure the protection and wellbeing of the child. These procedures are one important step in promoting consistency of good practice across the Children and Families Social Work Service with vulnerable children and families.

These procedures will be reviewed to ensure they keep up with the changing landscape in child protection and reflect our developing knowledge.



Celia Gray  
Head of Social Services

## Introduction

### The Procedures in Context

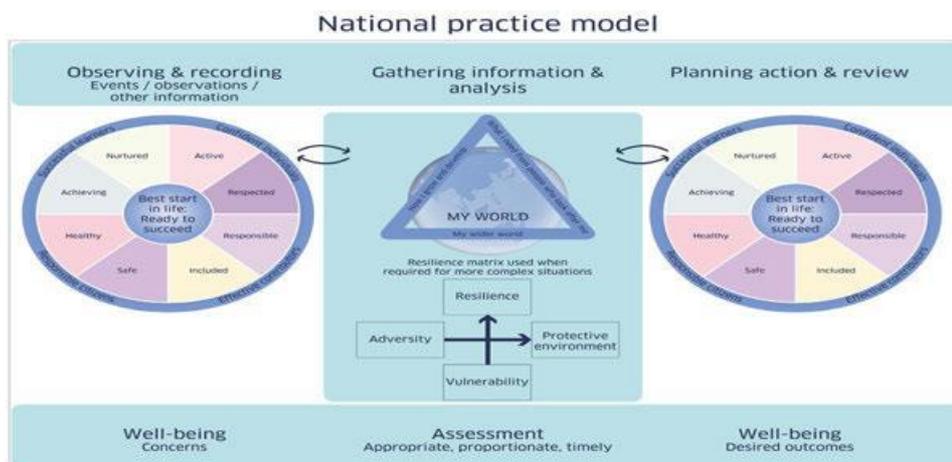
#### 1. Social Work Services as Lead Agency Where There are Child Protection Concerns

Child Protection work is undoubtedly “Everyone’s Business” and **ALL** Social Work Services staff have specific duties and obligations to promote, support and safeguard the wellbeing of all children including the needs of children who may be vulnerable and/or at risk of abuse.

Importantly, these duties and obligations do not solely sit with Children and Family services but also include ALL staff working in Adult Services such as Criminal Justice, Mental Health, Addiction, Hospital Social Workers and Child and Adolescent Mental Health workers. Where an adult is negatively impacted by their experiences this has the potential to impact upon their ability to care for themselves. There is thus, both a need and a duty, to consider if this may compromise the adult’s ability to provide “Good Enough” care and protection for any children they have care responsibilities for.

2. Social Work Services act as the Lead Agency (*lead professional*) where there are concerns about the protection of children and sit at the heart of child protection practice and process. Social Work has responsibility at pre-investigative stage for the receipt and management of notifications of concern, decisions regarding potential investigative interventions along with partner agencies, and progression of post-investigative actions. Social Work also has the responsibility for the administrative support of the majority of these processes, from minute taking and recording to the chairing and organisation of Child Protection Case Conferences and Core Groups. The exception to this is the management of the information connected with the Initial Referral Discussion ( IRD) process which is managed by Police Scotland.

3. **The GIRFEC National Practice Model<sup>1</sup> and Assessment of Need & Risk** –The Getting it Right for Every Child (GIRFEC) ([Forth Valley GIRFEC process](#)) approach is the key thread running through policy and practice affecting children, young people and their families in Scotland.



4. The GIRFEC National Practice Model provides the foundation for identifying concerns, assessing needs and initial risks and making plans for children in ALL situations. It helpfully sets out a shared language and a common understanding and approach for practitioners across all services. This single system of planning for a child should be used in every case. All services, thus, need to use and contribute to the model in a way that reflects their responsibilities. Services that may “previously have seen their role as being to pass on concerns are now expected to take a proactive approach to identifying and responding to potential risks, irrespective of whether the child in question is their client” <http://www.gov.scot/Resource/0045/00450733.pdf> (page 5).

5. The GIRFEC approach stresses the importance of understanding risks and needs within a framework of the child’s whole world with the aim of improving outcomes for children, young people and their families based on a shared understanding of wellbeing. Where there are child protection concerns the **Lead Professional** will:

- act as the main point of contact with the child and family to discuss the plan, how it is working and any changes in circumstances that may affect the plan;
- be a main point of contact for all practitioners who are delivering services to the child;
- make sure that the help provided is consistent with the Child's Plan and that services are not duplicated;
- work with the child, their family and relevant practitioners to make sure that the child's and family's views and wishes are heard and properly taken into account and, when necessary, to link the child and family with specialist advocacy;
- support the child and family to make use of help from practitioners and agencies;
- in conjunction with other services and the child and their family, monitor how well the Child's Plan is working and whether it is improving the child's situation;
- co-ordinate the provision of other help or specialist assessments as needed, with advice from other practitioners where necessary, and make arrangements for these to take place;
- arrange for relevant agencies to review together their involvement and amend the Child's Plan when necessary;
- make sure the child is supported through key transition points; and
- ensure a careful and planned transfer of responsibility when another practitioner becomes the Lead Professional, for example if the child's needs change or the family moves away.

## Key Definitions

6. For key definitions of parent/carer, parental rights and responsibilities, relevant persons, kinship carer, informal kinship care and same sex relationships refer to Appendix A. (The National Child Protection Guidance (2014, Sect 8 & 9)<sup>2</sup>

7. ***A child for the purposes of these Procedures includes all children and young people up to the age of 18 yrs (as defined by the Children & Young People (Scot) Act 2014).***

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362.National Guidance for Child Protection in Scotland, Scottish Government (2014) - <http://www.gov.scot/Resource/0045/00450733.pdf>

8. The priority is to ensure that a vulnerable child who is, or may be, at risk of significant harm is offered appropriate support and protection. Understanding the individual child's circumstances and age will, by default, help determine what legal measures are applied. For example, the Adult Support and Protection (Scotland) Act 2007 can be applied to over 16s where the criteria are met. Young people aged between 16 and 18 are potentially vulnerable to falling between the gaps, and services must ensure that processes enable staff to offer ongoing support and protection as needed, via continuous single planning for the young person. In the absence of agreement across services it is appropriate that the Adult and Children's services managers examine the individual case circumstances that arise and exercise shared discretion as to the best course of action under which set of Procedures. Where no agreement can be satisfactorily reached as to appropriate course of action the matter should be immediately referred to, and decided upon, by the Head of Service. Draft Forth Valley Transition Planning guidance can be found [here](#).

9. Consideration will also need to be given to the issue of consent and whether an intervention can be undertaken where a young person has withheld their consent.

## Child Abuse and Child Neglect and the National Risk Indicators

### Child Abuse & Neglect

10. Abuse and neglect are forms of maltreatment of a child and/or young person. Somebody may abuse or neglect a child by inflicting harm, or by failing to act to prevent significant harm to the child. Children may be abused in a family or in an institutional setting, by those known to them or, more rarely, by a stranger. Assessments of need and risk thus also need to consider not only –

- **actual circumstances of harm** that children may have been exposed to but also the
- **likelihood of any future harm** that is where abuse is likely to occur

Practitioners may find it useful to consider the following abuse behaviours. The ways in which a child may experience abuse are varied and diverse and the individual circumstances of abuse will also vary from child to child. In order to protect children and young people from abuse, all those working with children and their families should have some understanding of child protection issues and be confident in the recognition of and response to child abuse.

11. There are three behaviour patterns that may assist practitioners in considering the nature of the risk and the action necessary to protect the child or young person -

1. **Premeditated Abuse** (eg. sexual abuse)

2. **Stress related abuse and neglect**  
(eg. parental mental health/addiction)

3. **Competence related abuse and neglect**  
(eg. parenting skills)

12. From 2011, children have no longer been registered under a specific Category of Abuse, instead efforts now seek to obtain better understanding of the specific **Areas of Concern** (risk indicators) that may be present within a child's life circumstances.

Practitioners are encouraged to consider, more broadly the multi-dimensional vulnerabilities that children and young people may be exposed to that place them at risk of harm.

13. The individual character and definition of these types of harm are captured in the National Child Protection Guidance 2014 and through the Forth Valley Inter Agency Child Protection Procedures.

National Risk Indicators	
1.	Domestic Abuse
2.	Parental Alcohol Misuse
3.	Parental Drug Misuse
4.	Non-Engaging Family
5.	Child Affected by Parental Mental Health Problems
6.	Child Placing Themselves At Risk
7.	Sexual Abuse
8.	Child Exploitation
9.	Physical Abuse
10.	Emotional Abuse
11.	Physical Neglect
12.	Other Concern

## Child Protection

14. 'Child protection' means protecting a child from child abuse or neglect. Abuse or neglect need not have taken place; it is sufficient for a risk assessment to have identified a likelihood or risk of significant harm from abuse or neglect'.  
<http://www.gov.scot/Resource/0045/00450733.pdf> (page 12).

Equally, instances where a child may have been abused or neglected but the risk of future abuse has not been identified, the child and their family may require support and recovery services but not a child protection plan. In such cases, an investigation may still be necessary to determine if a criminal investigation is needed and to inform an assessment that a child protection plan is not required.

## Significant Harm - Identifying and Managing Risk

15. "Working with risk is at the heart of child protection....Identifying concerns that require child protection actions in a timely fashion is central to effective action to support children...The importance of good, accurate risk assessment within child protection cannot be overstated" <http://www.gov.scot/Resource/0045/00450733.pdf> (page 79). Risk assessment is not static, nor can it be separated from risk management. Risk factors can reduce over time, or conversely, increase. Equally, changes in a child or family's circumstances can strengthen or limit protective factors. The process of identifying and managing risk must therefore also be dynamic, taking account of both current circumstances and previous experiences, and must consider the immediate impact as well as long term outcomes for children.

16. Child protection is closely linked to the risk of **Significant Harm** which is a complex matter subject to professional judgement and based on a multiagency assessment of the circumstances of the child and their family. In order to understand the concept of significant harm, it is helpful to look at the relevant definitions –

**Harm** - means the ill treatment or the impairment of the health or development of the child, including, for example, the impairment suffered as a result of seeing or hearing the ill treatment of another. In this context 'development' can mean physical, intellectual, emotional, social or behavioural development and 'health' can mean physical or mental health.

Whether the harm suffered, or likely to be suffered, by a child or young person is '**significant**' is determined by comparing the child's health and development with what might be reasonably expected of a similar child.

17. To understand and identify significant harm, it is necessary to consider -

- the nature of harm, either through an act of commission or omission
- the impact on the child's health and development, taking into account their age and stage of development
- the child's development within the context of their family and wider environment
- the context in which a harmful incident or behaviour occurred
- any particular needs, such as a medical condition, communication impairment or disability, that may affect the child's development, make them more vulnerable to harm or influence the level and type of care provided by the family
- the capacity of parents or carers to meet adequately the child's needs
- the wider and environmental family context

18. Risk is the likelihood or probability of a particular outcome given the presence of adverse factors in a child's life. It is essential that the impact (or potential impact) on the child takes priority and not simply the alleged abusive behaviour. Significant harm can result from

- **a specific incident**
- **a series of incidents or**
- **an accumulation of concerns over a period of time**

19. The likelihood of **future significant harm** occurring establishes the point beyond which children in need begin also to be treated as children at significant risk and may become involved in the child protection system. There is no simple definition of the degree of concern or level of risk that sets this threshold; this is a matter for collective professional judgement dependent upon the individual child's circumstances.

20. When considering the immediate needs of a child or young person once a concern about their possible safety is raised, it is essential that practitioners consider the following questions <http://www.gov.scot/Resource/0045/00450733.pdf> (page 79):-

- **Is this child or young person at immediate risk?**
- **What is placing this child at immediate risk?**
- **What needs to happen to remove this risk now**

## Information Sharing & Consent

21. Sharing relevant information is an essential component of protecting children. Although services may understandably be concerned about balancing their duty to protect children from harm and their general duty towards the service user, the over-riding concern in all circumstances must always be the wellbeing and safety of the child. This is an important principle well established in Law, Policy and Procedure.

22. To secure the best outcomes for children, practitioners need to understand when it is appropriate to seek or share information, how much information to share and what to do with that information.

23. Concerns about a child's safety should always take precedence over the public interest in maintaining confidentiality. Under present data protection law (Data Protection Act 1998), it is perfectly acceptable and lawful for services to share information, where there is an indication that a child's wellbeing is at risk. Under such circumstances consent is not required and should not be sought as the holder of the information can rely on alternative and more appropriate conditions from Schedules 2 & 3 of the Act.

24. Advice and guidance from the GIRFEC National Programme Board<sup>3</sup> and the Information Commissioner<sup>4</sup> have reaffirmed the potential to share information across services in circumstances of wellbeing as well as protection.

25. Good practice should always be to seek and obtain consent to share information as it is always better to work alongside families where it is possible and appropriate to do so. However, consent may not always be achievable and children's wellbeing and safety may be compromised by waiting until such consent becomes available. When practitioners consider it necessary to proceed without seeking consent, it is important that ***the reasons to do so are fully recorded and agreed by the team manager.***

## Involving Children & Families

26. **Children** - Children should be helped to understand how child protection procedures work, how they can be involved and how they can contribute to decisions about their future. Taking into account the age and maturity of the child or young person, they will often have a clear perception of what needs to be done to ensure their own safety and well-being. Children should be listened to at every stage of the child protection process and given appropriate information about the decisions being made. Where a child has learning disabilities or additional support needs with communication, consideration is given to the best way to involve and communicate with the child.

27. Careful consideration ought to be given to the needs of the child or young person. They may have been groomed or controlled by explicit or implicit threats and violence and fear reprisals if they disclose. In some instances, a child or young person may be too distressed to speak to investigating agencies or they may believe that they are complicit in the abuse.

28. Immediate, therapeutic, practical and emotional support may be required; this will also start building trust. A thorough assessment should be made of the child or young person's wellbeing and services provided to meet identified needs. Discussion with local Procurators Fiscal on disclosure of information will avoid the contamination of evidence and ensure that children and young people receive the support they need while awaiting any criminal proceedings. Agencies who know the child or adult, including third sector

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<sup>3</sup> Crewe M. 2013 GIRFEC Programme Board Scottish Government  
(<http://www.scotland.gov.uk/Resource/0041/00418079.pdf>)

<sup>4</sup> ICO 2013 Scotland & Northern Ireland  
(<http://www.scotland.gov.uk/Resource/0041/00418080.pdf>)

organisations, may be involved in planning the investigation to ensure that it is managed in a child-centred way, taking care not to prejudice efforts to collect evidence for any criminal prosecution.

29. The use of an advocacy or specialist support service for the child or young person, where available, should always be considered.

30. **Family Members And Carers** - When undertaking child protection investigations, the need to develop a co-operative working relationship should be given special attention. Working in partnership with parents/carers can be difficult to achieve at the point of investigation, when they may feel under intense scrutiny and suspicion. Parents/ carers should be treated with respect and, where possible and appropriate, given as much information as possible about the processes and outcomes of any investigation. Parents/ carers should feel confident that staff are being open and honest with them and in turn, feel confident about providing vital information about the child, themselves and their circumstances. Working in partnership with one or more family members is likely to have long-term beneficial outcomes for the child and staff must take account of the family's strengths as well as its areas of concern. Practitioners should ensure that the parents/carers understand that the first consideration is making sure the child is safe.

31. Parents, carers and family members can contribute valuable information, not only to the assessment and any subsequent actions, but also to decisions about how and when a child will be interviewed. Children and families need time to take in and understand concerns and processes. The views of parents/carers should always be recorded and taken into account. Decisions should also be made with their agreement, whenever possible, unless doing so would place the child at risk of suffering significant harm or impede any criminal investigation.

32. Parents/carers and children of sufficient age and understanding should be given a **written record of decisions** taken about the outcome of an investigation unless this is likely to impede or compromise any criminal investigation. In addition to receiving a copy of the decisions, they should be given the opportunity to discuss the decisions and their implications with a social worker or another relevant professional. This does not mean, however, that parents/carers should attend all meetings which are held in connection with their family. Sometimes, it will be appropriate and necessary for practitioners to meet without parents/carers in order to reflect on their own practice in a particular case, consider matters of a sensitive or confidential nature, or deal with a matter which is likely to lead to criminal inquiries.

33. It is important that where there are child protection concerns and one of the parents/carers has specific needs such as a learning disability, mental health issues etc, the use of an independent advocacy service, where available, is always considered. Practitioners should be skilled or seek appropriate support in communicating with parents with learning difficulties. Practitioners need to take time when communicating and use simple language; they also need to make sure that the parents can read any written information or else provide that information in a different way.

34. **Non-Abusing Parents/Carers** - In cases of familial abuse, practitioners should ensure the non-abusing parent or carer is involved as much as possible. Practitioners need to be wary of making judgements on parents and carers who are likely to be in a state of shock and experiencing great anxiety. While the priority should always be the protection and wellbeing of the child, practitioners should attempt to engage with the non-abusing parent/carers and determine what supports are necessary to help them care for the child. Equally, practitioners should be sensitive to the impact of abuse and the subsequent investigation on siblings and extended family members. Consideration should be given to their needs in such circumstances and to the likely impact on their ability to deal with the situation.

# Identifying and responding to concerns about children

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## General Comment

35. The Local Authority has a statutory duty under the Children (Scotland) Act 1995 (S53) to promote, support and safeguard the wellbeing of all children in need and to enquire into the circumstances of children and young people who may require compulsory measures of supervision, who may have been abused or neglected or be at risk of abuse or neglect, and take all measures to protect them from further harm. In all notifications of concern which suggest that practitioners will make enquiries and give the Children's Reporter any information which is relevant about the child.

36. Social Work Criminal Justice services alongside Police Scotland also have a statutory responsibility for supervising and managing risk from adults who have committed offences against children.

37. Where concerns about a child's wellbeing come to the attention of social work services, practitioners will need to determine the nature of the concern and what the child may need to ensure their safety and wellbeing. ***In all cases deemed to be child protection action must take precedence over all other work.***

38. Concerns about actual or potential harm to a child or young person may arise over a period of time or in response to a particular incident. They may arise as a result of direct observation or disclosures from the child themselves. Concern will also arise when a child is, or is likely to become, a member of the same household as a child in respect of whom any of the offences mentioned in Schedule 1 of the Criminal Procedure (Scotland) Act 1995 <http://www.legislation.gov.uk/ukpga/1995/46/schedule/1> has been committed.

39. When it is deemed necessary to investigate an allegation of child abuse or likelihood of harm, the aim is to conduct investigations which are ***proportionate, sensitive and thorough*** having the wellbeing and protection of children at their core. Social Work should discuss and liaise with the named person. The application of professional judgement is inescapable in deciding whether or not to introduce child protection procedures.

40. The ***team manager*** will form a view as to the nature of the child's needs and what response is needed, if any. If after initial assessment, the child is not considered to be in need of protection, he or she may be in need of other responses such as undertaking a needs assessment, offering advice, guidance, specific services or making a referral to another agency. This decision is made in discussion with the ***service manager*** and if at initial referral stage it is decided that a referral does not meet the threshold for child protection a child welfare form should be completed. This can be seen on the flow chart which can be accessed via the following link. ( *Insert link to child welfare guidance flowchart and hyperlink*)

## Action on Receipt of Notification of Concern

41. Practitioners should be alert to the fact that concerns about children may be communicated in various ways, not necessarily through a formal route. Practitioners should be alert that even apparently low level concerns may point to more serious and significant harm. Abuse does not always have to have occurred to warrant child protection measures. Child protection is about both **actual** and **likely** harm.

### Business Support

42. On receipt of a notification of concern about a child, business support officer will check if the child is known to social work services.

43. **If the concerns relates to an open case**, business support officer will forward all relevant information to the allocated social worker or their team manager if the social worker is not available. If the team manager for the allocated case is not available, the duty team manager for Children and Families will assume responsibility for case management.

44. **If the concerns relate to a child who is not known** business support will record the notification of concern and forward all relevant information to the respective intake team for action.

## Recording of Information Relating to the Notification of Concern

45. The social worker responsible for managing the Child Protection concern should try to gather the following information from the referrer, and record the information on CFIS along with the date, time and method of notification (i.e. written or telephone).

- Referrers name, contact details and involvement with the family
- The child's full name, age, date of birth, ethnicity and address
- The child's current whereabouts, who they are with and what the referrer is concerned about
- The name, age and address of the child's main parents/carers?
- Any adults who have care of the child
- Full details of who it is thought may have harmed the child or may pose a risk to them, and where and what may have happened
- Is the child in imminent danger
- Are there any other children who may also be at risk? Does the referrer have their names, DOB, address etc.
- The name, age and address of any other person known to have information on the alleged or suspected abuse?
- Whether there are any other agencies currently involved with the family (if known) eg health visitor, teacher, school nurse or any other health professional, including those professionals working directly with parents/carers?
- Whether there have been any previous concerns about this child or other children in the household?
- Whether the child has any disabilities or special needs?
- Whether there are any cultural or religious factors which need to be taken into account?
- Whether the parents are aware of the concerns and if so what is their reaction? If a member of the public, the worker should establish whether or not the referrer is willing to be interviewed, if required, during the course of any possible future investigation

**46.** It is essential that information regarding notification of concerns or suspicions of abuse are recorded as fully and as accurately as possible as this will inform the gathering of information and initial assessment phase. The worker receiving the information should read back to the referrer the written record, together with any interpretations being made of the information that has been given.

**47.** The worker should request written confirmation of the concerns from partner agencies using the **GIRFEC form 2B**. The worker should advise, where appropriate when a response will be made. ([Hyperlink form 2B](#))

**48.** The worker should pass all the information immediately to the appropriate team manager. If he/she is unavailable the information should be passed to another team manager or service manager. Social workers in hospitals, prisons and other special units should pass the information to the team manager within their own unit. Team manager within hospitals should contact the service manager of the local office and seek advice and agreement as to how to proceed.

### **Anonymous Notifications of Concerns Received by Business Support Administration**

**49.** The procedures will be followed even where referrers refuse to give their name or on receipt of a child protection concern from an anonymous communication. Members of the public have the right to make/ raise a concern anonymously without giving their name but they must be advised that this may cause difficulties in establishing whether or not a child is at risk of harm or abuse.

**50.** Where referrers do give their name, but request that their identity should not be disclosed, they can be advised that any information given will be treated with discretion and that their identity will not be revealed unless the safety of the child or the court procedure requires it. Referrers should however be advised that, in some instances, the information may have to be shared with the Police who may wish to interview the referrer.

## **Initial Enquiries - Sharing Concerns and Information Gathering**

### **Initial Gathering of Information**

**51.** It is the responsibility of the team manager to co- ordinate initial gathering of information and ensure a CP1 is opened. The team manager may assign the activity of checking departmental records, approaching partner agencies with requests for information e.g. Police, Education, Health, Housing etc. to the social worker.

The social worker will require to -

- **Check the Child Protection Register** - It is the responsibility of the team manager to check Clackmannanshire's' Child Protection Register and ensure that the concern has been recorded on CFIS. A check to the register should be made on all children in the household, whether their residence is permanent or temporary
- **Checking with Partner Agencies** - the social worker should consult immediately with the named person and other partner agencies that may have information about the family. In undertaking this task, the worker should make clear the nature and purpose of the request, and record the response on CFIS.

**52. Early Sharing and Collation of Information with Health** - the social worker should contact the Child Protection Nurse Advisors at Stirling Community Hospital. A child

protection advisor will collate and analyse available hospital and acute service health information and provide a report back to social work services.

*Child Protection Department (NHS)  
Ground Floor (Old Occupational Health Department  
Administration Offices  
Livilands Gate  
Stirling  
FK8 2AU*

*Tel: 01786 477420  
Email: FV-UHB.nhsfvchildprotect@nhs.net*

53. This request for information **should not** negate the need to immediately check with local health colleagues such as the GP and the health visitor or to delay taking action where a child may be at risk while awaiting such information.

### **Initial Referral Discussion (IRD)**

54. Where the team manager identifies that the level of concern is such that child protection procedures may be necessary, they should immediately discuss the referral (IRD) with the police by contacting the **Public Protection Unit (PPU) at Larbert**

*HUB  
Larbert Police Station  
19424 Central Boulevard  
Central Business Park  
Larbert  
FK5 4RU*

*Tel: 01324 474946  
01324 574929  
Email: ForthValleyFPU@scotland.pnn.police.uk*

55. The team manager will make contact with the Detective Sargent at the PPU to discuss the concern. The police will undertake the necessary police record checks in relation to the concern. The team manager will in discussion with the Detective Sargent will agree what action is necessary to take in relation to the concern.

56. Initial Referral Discussions must consider and make decisions on the following:

- what further information is required, who will be responsible for gathering this and whether this will be carried out jointly or by a single agency and if so which agency
- whether a Joint Investigative Interview is required and, if so, arrangements for this, including who will carry it out
- whether a medical examination is required
- what immediate support is required for the child and who will provide it
- whether there is evidence of risk to the wellbeing of any child other than the subject of the referral

- whether consent is required from parents or carers, who will obtain this and what information will be passed to parents or carers even if consent is not being sought
- what feedback will be given to the initial referrer at this stage, and who will provide this. (The initial referrer or agency might continue to have close contact with the child or family and must not be compromised by lack of information)

57. In considering all of these issues, timescales and the sequence of actions must be decided upon and recorded.

### Outcomes from the Initial Referral Discussion

58. A number of actions are possible from Initial Referral Discussions and any outcomes will be agreed jointly and explicitly by all core agencies. A record will be made as to who will be responsible for completing tasks, time scales and sequence of events. These outcomes are not mutually exclusive and more than one outcome may be required as a result of an Initial Referral Discussion:

- **No Further Action** – where there is sufficient information available to decide that no further action is required at that time by any of the ‘core agencies’
- **Single Agency Investigation** – where there is evidence that this is the best way to proceed, the single agency should conduct further investigations
- **Joint Investigation** – where the information suggests that in the best interests of the child, social work and police services will investigate jointly.
- **Voluntary Support** – where there may be a need for one or more agency, statutory or voluntary, to provide support for a child or a family on a voluntary basis.
- **Medical Referral Discussion** – whether a medical examination is required and the nature and timing of it and who will perform it.

*Forth Valley guidance can be found [here](#) and flow diagram can be found [here](#).*

59. Before a decision can be taken as to whether a joint child protection investigation is required, it is essential that all relevant services are engaged. The IRD will involve discussion between police, social work, health and education where a child is of age to be in an education setting. The team manager will discuss this with the police and agreement reached as to who will liaise with health. The named person will have been contacted by social work as part of the referral procedures and early gathering of information.

60. It may be necessary to gather further information and undertake an analysis of risks and needs before decisions can be made about how to proceed. Agreement will be reached jointly with the police, health and education as to how to proceed.

61. In most instances the IRD will be undertaken by phone, but in some complex situations, it may be agreed that agencies should come together to discuss the concerns and agree what action is necessary in the scope of a strategy meeting. The IRD will be recorded using the pro-forma and a copy will be held in all agency files.

## Deciding How to Respond

### Timeframe for Decision Making

62. Decisions about whether or not the information provided should lead to child protection processes are the responsibility of the team manager. Decisions about how child

protection concerns will be responded to should be made as soon as possible and **not later than 24 hours** from the initial contact. It is the responsibility of the team manager to ensure that the case is assigned and assessment and action commences.

### **Alert to Emergency Duty Team (EDT)**

**63.** The social worker should alert the emergency social work team that a child protection investigation has been initiated.

*Wolfcraig Building  
Dumbarton Road  
Stirling  
FK8 2LQ*

*Tel: 01786 470500*

### **Focus at the initial enquiry stage**

**64.** The focus at this stage is about whether abuse has taken place or the child is/may be at risk of abuse. Consideration needs to be given to the immediate risk or danger to the child. Where there is immediate risk to the child there may be the need for Police to use their emergency powers<sup>5</sup> to take immediate action to protect the child. There should be ongoing assessment of the risk to the child and appropriate consideration given to the use of emergency protection measures.

**65.** In addition practitioners need to consider whether the concerns arise from a **single event** (such as physical injury) or from an **accumulation of concern** (as in neglect).

### **Collation of Information from Partner Agencies**

**66.** The social worker will record information available from other agencies including adding to what information is already known about the child and their family –

- All names, alternative names and dates of birth of adults and children in the family and in the household
- Details of those holding parental responsibilities
- Other significant information including legal status of the children
- Checks of social work records in respect of family members, including the Child Protection Register, to identify any previous contact and concerns
- Information obtained from the health child protection unit
- Contact with the police to determine whether any information about adults in the household may heighten concerns, and whether a criminal offence may have been committed or is likely to be committed and that the police would wish to pursue through a joint investigation.

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<sup>5</sup> Section 61(5) of the Children (Scotland) Act 1995

## Outcome of Initial Enquiries

**67.** It is the responsibility of the team manager with the Detective Sergeant to decide what action is necessary once initial enquiries have been completed. As part of the decision making process the team manager will discuss the concerns with the service manager and agreement reached as to what action is necessary, taking in to account all available multi agency information relating to the child and their family.

### **Consideration of the Need for a Comprehensive Health Assessment or Medical**

**68.** The team manager will consider within the IRD with their colleague from health any requirement for medical intervention depending on the area of concern, including the possible need for a comprehensive medical assessment. A thorough assessment of the child's health needs is an essential element in joint investigations. A decision should be made as to the need to progress to a Medical Referral Discussion (MRD) post interview. Guidance on the Forth Valley procedure can be found [here](#).

**69.** A medical examination for allegations of abuse, particularly sexual abuse can often reassure that no long-term physical damage or health risk has occurred and should also aim to identify unmet health and wellbeing needs in a very vulnerable child.

**70.** A Comprehensive Medical Assessment should be considered in cases of child abuse and neglect, even when information from other agencies show little or no obvious health needs. A Comprehensive Medical Assessment has five purposes:

- To establish what immediate treatment the child may need provide information that may or may not support a diagnosis of child abuse when taken in conjunction with other assessments so that agencies can initiate further investigations as appropriate.
- Provide information or evidence, if appropriate to sustain criminal proceedings or care plans.
- Secure any ongoing health care (including Mental Health) monitoring and treatment that the child may require, and
- Reassure the child and the family as far as possible that no long term physical damage and health risks have occurred.

**71.** A specialist paediatric or joint paediatric / forensic examination may need to be carried out. The joint paediatric / forensic combines a comprehensive medical assessment with the need for corroboration of forensic findings and the taking of appropriate specimens for trace evidence including, for example, semen, blood, and transferred fibres.

### **Where a child is allegedly abused by a person who is not a member of the family**

**72.** Efforts should be made to assess whether or not there has been any familial responsibility, eg. if the parents knowingly exposed the child to risk of abuse by an adult who subsequently harmed them or exposed them to harm. Where this is established a child protection investigation should be instigated by the team manager.

**73.** Where a child is known to social work services and it is established that there has been no familial responsibility, the police should contact the team manager and vice versa, and they should agree on whether or not there is a role for social workers to jointly interview children with the police. There may be situations where it is deemed appropriate, eg. where there is a social worker involved with the family whom the child knows and trusts or where the child is known to be vulnerable such as in situations of trafficking and child sexual exploitation.

74. The police should advise the team manager when it is appropriate for social work to visit the family to offer support and further services. The team manager should allocate this activity to a worker. Where appropriate the team manager should consider convening a Team Around the Child (TAC) meeting to consider planning support for the family. This should be discussed with the Named Person.

### **Team Manager Decision Making**

75. If the team manager decides after initial inquiries that no immediate action should be taken this must be ***discussed with the service manager and endorsed by them.***

76. The team manager and service manager may decide that –

- Child Protection procedures are followed
- Single agency assessment/support is provided
- Multi-agency assessment (Girfec Assessment) be undertaken which may result in referral for support services if preliminary enquiries have revealed wellbeing concerns for support and services and the consideration of a referral to SCRA
- No further action required

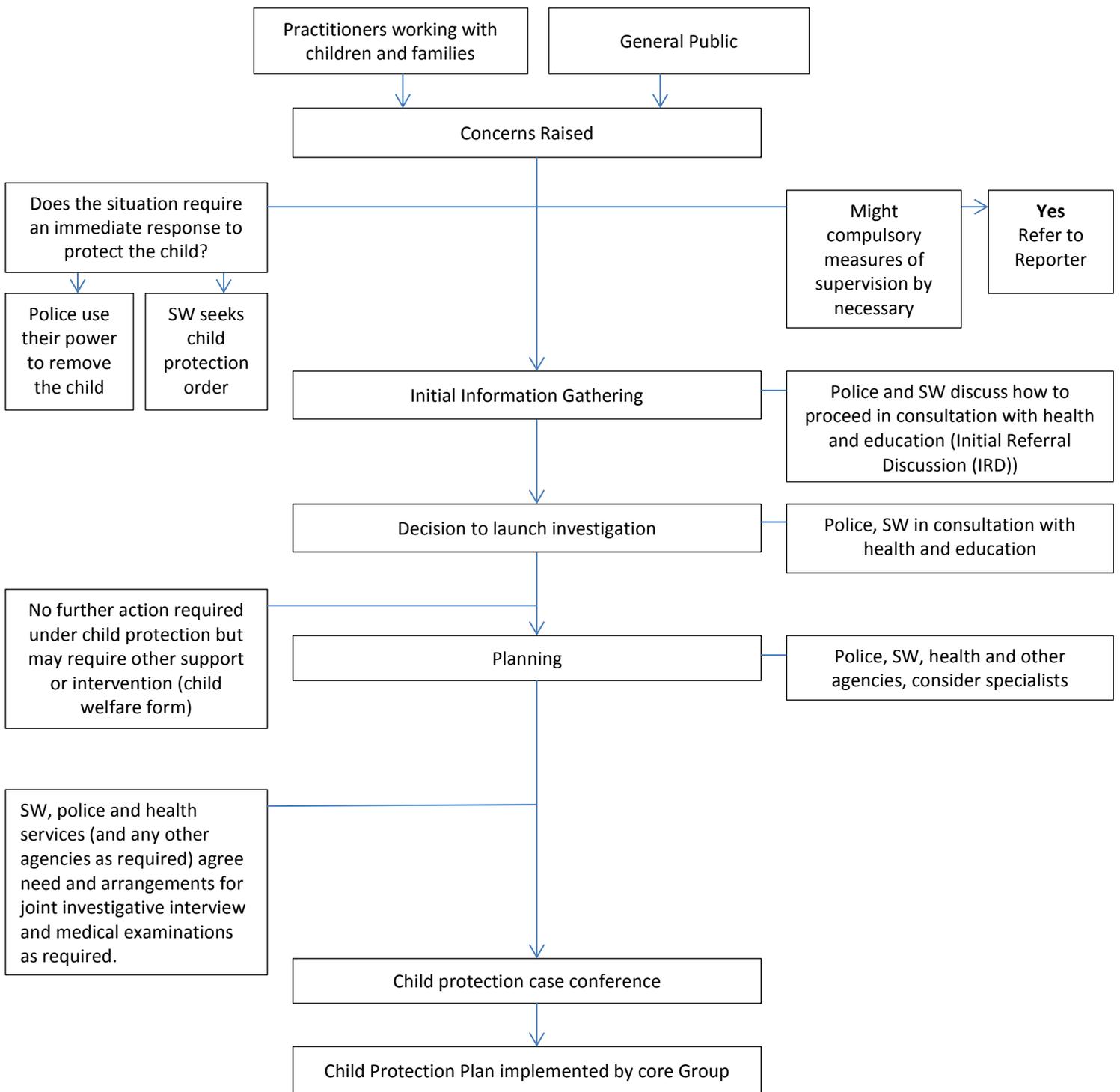
77. Whatever the outcome, the team manager must ensure that the decisions, along with a clear statement of the reasons for it, are recorded on CFIS for the child and adult. CFIS activities must be shut down or moved on.

78. The team manager should ensure that partner agencies are advised of the outcome of the investigation using the pro-forma letter ([Form ROF/01](#)).

79. Families should be met with and advised of the outcome of the investigation this will allow any concerns they may have to be discussed and provide an opportunity for them to be involved in future planning as required.

### **Responding to Concerns About Children**

80. The process of responding to child protection concerns in diagrammatic form can be represented in the following way. However, it should be noted that at any stage, the process may be stopped if it is felt emergency measures are not required to protect the child or no further response under child protection is necessary.



# Managing the Child Protection Investigation

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## Purpose of the Child Protection Investigation

81. Purpose of the Child Protection Investigation is to -
- Establish whether or not concerns are substantiated
  - Identify the nature and extent of any previous harm
  - Establish the extent of any risk of future harm
  - Identify the extent of any parental responsibility for events or concerns
  - Establish the parent's ability to protect the child from significant harm in the future
  - Establish whether there is a need to act to protect the child from risk of immediate harm (and where required to gather evidence to support the taking of this action)
  - Consider the child's wider wellbeing circumstances
  - Consider any risks or concerns about other children in the household, or in the community, arising from the concerns under investigation
  - To secure medical attention where required

## Information to be Gathered During the Course of the Investigation

82. Adequate background information should be obtained so that a relatively complete picture of the family situation is gathered. Consideration should be given to obtaining the following information throughout the course of the investigation -

- full names and dates of birth of family members
- present and previous addresses
- details of the alleged harm (witnesses, times locations, type of injury, circumstances)
- parents' account or explanation of the alleged abuse
- child's account of their circumstances
- child's account of any abuse
- background family information
- household conditions
- any substance abuse issues
- name and address of general practitioner and any known health issues
- information from the educational establishment the child attends
- details of any other children who may be at risk

83. A home visit should be undertaken unless it has been agreed by the team manager that this would impact negatively on the investigation.

84. All relevant non offending adults and children should be interviewed. This may include staff from other agencies or people in the neighbourhood where appropriate

## Investigation of allegations of child abuse

### Who Can Undertake a Child Protection Investigation

**85.** Where a decision has been taken to invoke child protection and initiate an investigation this should *normally be conducted by two **qualified social workers***. The team Manager must allocate a suitably experienced social worker to undertake the investigation. In doing so, the team manager will give due consideration to the needs of the child, the nature of the concerns and the resources available. ***In all cases the lead social worker must be a qualified social worker who has completed Clackmannanshire Social Work Basic 5 Day Child Protection training.*** In some circumstances it may be appropriate for another worker such as a Social Care Worker to be the second worker, but this requires careful consideration by the team manager responsible for the investigation. The experience and knowledge of staff in some specialist settings may be invaluable in informing the investigation.

### The Need for Additional Information

**86.** The team manager should consider the need to interview the person who raised the concern (***the source***) in the first instance if further information or clarification is required. This should however not be done if the nature of the referral is specific and clear and the information given is sufficient that it warrants an immediate approach to the child/family.

### Discussion with Police

**87.** Where the level of concern is sufficient to warrant use of Child Protection Procedures the team manager should immediately discuss the referral with the Police PPU. In the first instance the team manager may request the social worker to discuss the referral with the Police PPU. The Police PPU will undertake the necessary police checks and forward the information to the area team direct.

**88.** The Detective Sergeant from the Police PPU and the team manager should discuss the concern and reach agreement on how the investigation should proceed. This may take the form of -

- qualified social workers undertaking the initial stages of the investigation and thereafter collaborating with the police
- or a joint investigation by police and social work.

**89.** If a Joint Investigative Interview (JII) is required the team Manager and detective sergeant must agree timescales for the interview to take place. It is the responsibility of the team manager to ensure that timescales are being met throughout the investigation.

**90.** If agreement cannot be reached with regard to the Joint Investigative Interview, this must be brought to the attention of the service manager who must resolve the matter with the relevant police inspector.

## Social Work Led Investigation

### Two Social Worker Interview

**91.** While most investigations will be undertaken jointly with the police, there may be situations where it is agreed with the police that a joint investigation is not required. Where this happens the team manager must allocate two suitably experienced workers to undertake the interview, at least one of whom must be a qualified social worker who has completed Clackmannanshire Social Work 5 day basic child protection training course. Where it is possible, one of the workers should have completed the JII 5 day training programme. In determining who the workers shall be the team manager will give consideration to the needs of the child and the nature of the concerns.

### Brief & De-Brief Processes

**92.** In non-joint investigative circumstances the team manager must ensure the interviewing workers receive a pre investigative briefing as to the purpose and proposed conduct of the whole investigation, and identify to whom the workers should report and be debriefed on completion of the interview, or in the event of unforeseen problems. This will be recorded on the pre-briefing/briefing template and a copy IDOXED onto the child's file. Template can be found [here](#).

**93.** The briefing should ensure that any investigation and interview of the child follows the Joint Investigative Interviewing Guidance as closely as possible.  
<http://www.gov.scot/Publications/2011/12/16102728/0>

Issues to be considered include -

- Obtaining consent to interview the child, how when and where the child will be interviewed where appropriate
- Advising parents of the investigation and of concerns where appropriate
- Child's age and gender
- Race, culture, ethnicity, religion or language
- Cognitive and linguistic ability
- Any known relevant behaviour
- Child's likely emotional state
- Any mental and/or physical health needs
- Any learning physical or mental health impairments
- Child's family and living arrangements
- The nature of any significant relationships with family or carers
- Daily routine
- Any significant sources of stress
- Any previous police, social work, or agency, contacts including any previous child protection investigations
- Any ongoing medical or therapeutic interventions
- Information obtained from the initial referral discussion(s)

**94.** The Pre Interview Briefing must also give consideration to issues of risk to, and protection of, staff. Where information exists to suggest that there may be a significant risk, the team manager, in discussion with the service manager, must ensure arrangements are put in place to minimise these risks, without causing undue delay to the investigation or leaving the child exposed to an unacceptable level of risk. Where information suggests a significant risk of violence to staff or the likelihood that a Breach of the Peace may be committed, consideration must be given to requesting police attendance.

95. The main task of Social Work is to protect children from **future harm**. This involves attempting to ascertain if a child has been abused, or is likely to be exposed to **significant harm**, and if so to make plans to protect the child. This means gathering information for one or more of the following purposes:

- to decide whether intervention or further action is necessary
- to inform an assessment of the child and family situation with a view to providing supports to assist the family to look after the child at home where possible
- to inform an assessment of any immediate risk to the child
- to support an application for a child protection order, child assessment order or exclusion order if required
- to pass to the Reporter who may proceed to a Children's Hearing.

## Police Led Investigation

### Establishing if a Crime Has Been Committed

96. The main task of the police is to attempt to establish if a crime has been committed and gather evidence which may be used in the criminal court or for referral to the Reporter. However, the police also require to have the protection and wellbeing of the child at the centre of their investigations and should give consideration to the age and stage of the child. In some instances, following joint discussion, it may be appropriate for SW to support and assist in the interview with the child.

97. In certain circumstances the police can use their discretion and decide not to proceed with a criminal charge. A report would usually be sent to the procurator fiscal outlining the mitigating circumstances of the referral. They have no discretion as far as the Reporter is concerned. They must investigate instances where a child may be in need of compulsory measures of supervision.<sup>6</sup>

### Interviewing the Alleged Perpetrator

98. Throughout the course of the investigation where there is indication that a parent/carer has harmed a child efforts should be made for the police to interview the parent/relative to avoid contamination of evidence. Ideally, the police should approach the alleged abusing parent/relative having gathered as much information as is possible having interviewed the victim(s) and any other relevant witnesses.

99. Whilst the ideal option is for social work to avoid contact with the parent/relative to allow the police to interview the parent/relative first, it is recognised this will sometimes not be possible and social work must visit the family to ensure child protection prior to the police approaching the suspect. In these circumstances the team manager should discuss with the police the level of detail about the alleged offence that can be discussed with the parent/relative. ***The safety and wellbeing of the child is paramount and takes precedence over evidence issues.***

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<sup>6</sup> Section 53 of the Children (Scotland) Act 1995

## Standard of Evidence

**100.** Investigations which are child-centred are more likely to have credibility at court and therefore there is greater likelihood of a conviction. The standard of proof for criminal court is "***beyond reasonable doubt***". The standard of proof for the civil process of the Children's Hearing is "***on the balance of probabilities***" thus it may be possible to protect children through the Children's Hearing System.

## Joint Police and Social Work Investigation

**101. The Purpose of a Joint Investigative Interview** with the police is to –

- Establish the facts regarding a potential crime or offence against a child
- To gather and share information to inform the assessment of risk and need for the child and the need for any protective action.

**102.** The JII can also provide evidence on court proceedings such as a criminal trial or a children's hearing.

• **A Joint Investigation May Normally be Undertaken in Cases –**

- Involving familial abuse
- Where the child is looked after by the local authority
- Where there are particular difficulties in communicating and it is considered that social workers or other staff could contribute effectively to the investigation
- In any other circumstances, where it is agreed jointly by police and social work, that a joint approach would be beneficial to the enquiry

**103.** In a JII social work, police and health should plan and carry out their respective tasks in a co-ordinated way. ***The named person should be kept informed at every stage of the process***

## Police and Social Work Conducted Investigations

**104.** Where a JI interview is required, where possible both interviewers, must have completed the Joint Investigative Interview Training (JIIT).

**105.** A JI interview must be led by a JI interview trained worker, whatever agency they are from. JI interview must also be conducted according to the Joint Investigative Interviewing Guidance<sup>7</sup>. <http://www.gov.scot/Publications/2011/12/16102728/0>

**106.** In order to avoid contamination of evidence it may not be appropriate for the same member of staff to interview more than one child. In large, complex cases, police and social work managers may require to give consideration to the need to assign different workers to interview specific children.

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<sup>7</sup> Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland, 2011 (<http://www.scotland.gov.uk/Resource/Doc/365398/0124263.pdf>)

## Brief / De-Brief Process

107. If it is agreed that a joint investigation should take place, the team manager and responsible police officer should agree who will manage the brief and de-brief of the workers who will be undertaking the JII. The current JII guidance should be followed and the relevant JII paperwork should be used.

108. The relevant manager and worker must decide on –

- where the interviews will take place
- what questions will be asked
- who will lead the interview
- who will record the salient points (in most situations child interviews will be visually recorded, however, where this is not possible or inappropriate the JII guidance on hand written statements must be followed and will require a hand written statement to be taken)

109. The aim is to create a safe atmosphere where the child feels able to state what, if anything, has happened. In deciding where to interview the child the main concern should be the child's wellbeing. The child should be interviewed in premises that are non-threatening and non-stigmatising.

## Child Protection Planning Meeting

110. In more complex cases it may be necessary to organise a planning meeting prior to interview. This may be appropriate in cases where there a number of child victims to be interviewed or where the needs of the child are particularly complex or multiple interviews of the same child may be required. Planning meetings should also be convened when there are allegations against staff as stated in the Forth Valley guidelines. The skills and knowledge of those who know the child well will be valuable in planning the interview process. This will ensure that consideration is given to the

- needs of the child
- workers are fully aware of the circumstances and the purpose of the interview
- supports are put in place where necessary
- consideration is given to timing, venue etc.
- specialist advice can be sought i.e. psychology, education services regarding the interview structure etc.

111. The planning meeting should be chaired by the service manager responsible for the investigation. The decisions of the planning meeting should be fully recorded using the standard recording proforma. For further guidance on the use of planning meetings please consult the Forth Valley Child Protection [guidelines](#).

## Conducting the Interview with the Child

### Undertaking the Interview

112. In carrying out interviews and throughout the investigation careful consideration must be given to providing support and security to the child. Consideration must be given to asking someone who knows the child well and is trusted by the child to sit with them during interviews. ***This person should normally take no part in the interview.*** Where the child has already spoken to this person about the abuse it should be noted that this person's evidence could be challenged later in court and a decision may be taken to identify another

appropriate adult the child trusts to sit in with them during the interview. The overriding concern must be the child's best interests

**113.** Children should never be interviewed in the presence of parents who have allegedly abused him/her. Children should never be placed in the position of having to ask their parents to leave the room. In such circumstances the interviewing workers should not commence the interview and seek guidance as to how to proceed from the briefing officer whether that be the team manager or the detective sergeant.

### **Recording the interview**

**114.** The majority of child JII's will be visually recorded. However, where it is agreed that visual recording of the interview is not possible or not appropriate, workers require to revert to taking a written statement. The interview may still be audio recorded. In such circumstances, one worker should conduct the interview and the other should record. The recorder should make efforts to take as accurate a record as possible of the dialogue.

**115.** In cases of joint police/social work investigations originals of notes, write-ups, drawings, etc. are retained by the police and may be used at a later stage in court proceedings. Photocopies of these may be taken and retained in the social work file. At the end of the interview a copy of the child's statement should be retained in the child's social work file.

**116.** Where the interview has been visually or audio recorded, the interviewers should take brief notes of the interview recording the salient points. This allows workers to review the interview quickly during the de-brief and assists in reviewing the recorded interview when identifying key points within the interview. Salient points of the interviews must be dated and signed.

### **Number of interviews**

**117.** Best practice would be for interviews to be controlled and kept to a minimum with no more than two interviews per child per week should be conducted, unless in exceptional circumstances. Where additional interviews are required, they need to be justified, well planned and agreed by the service manager. Planning meetings should be convened in such circumstances to ensure that the needs of the child remain paramount during the period of investigation.

### **Interviewing Siblings**

**118.** Unless there is very sound evidence that the concern is groundless, or it is very clear from the circumstances of the child protection concern that only one child in the family is at risk, other children in the household should be interviewed and/or checked for injuries where appropriate.

## **Where there are concerns about the immediate safety of the child**

**119.** In some cases the parents may agree to the child being placed with extended family or social network on a voluntary basis while further enquires and assessments are carried out. Careful assessment of the extended family's ability to protect the child from allegedly abusing parents/carers must be undertaken. Where there is no appropriate extended family or social network then consideration should be given to placing the child/children in local authority accommodation on a voluntary basis with a parent's permission. (Section 25 Children (Scotland) Act 1995).

**120.** If at any point in the investigation the parents/carers withdraw co-operation and attempt to remove the child, consideration should be given to taking a Child Protection Order.

**121.** If there is concern about the immediate safety of the child consideration should first be given to the following –

- If the alleged abusing adult is charged with an offence the team manager can contact the procurator fiscal and suggest that a bail condition be imposed forbidding the alleged abusing adult contact with the child, unless the contact is managed by social work services. Careful assessment of the alleged abusing adult's intention to adhere to this condition has to be made alongside assessment of the non-abusing adult's ability and willingness to uphold these conditions. If this course of action is pursued then the team manager must advise the police so that they can act promptly should they be advised that the condition is broken.
- Consideration should be given to asking the alleged abuser to leave the family home on a voluntary basis. If this is refused then consideration should be given to applying for an Exclusion Order to remove the alleged abuser from the family home. The team manager should discuss this with legal services. If an Exclusion Order is granted the team manager should advise the police so that they can act promptly in the event of them being advised of the condition being broken.

**122.** Where there are concerns about the child's immediate safety and neither an exclusion order nor voluntary arrangements for the accommodation of the child are possible or appropriate a Child Protection Order should be considered.

**123.** The responsibility to take any urgent action to protect a child rests with the local authority within whose boundaries the child is located even if the child does not normally live within that local authority's area. Good practice suggests that the local authority where the child normally resides and is an active case, should be fully consulted and an agreement reached as to what actions are necessary by both local authority areas.

## **Investigation Where Children Are Affected By Disability**

**124.** There must be an awareness that children and young people with a disability or are especially vulnerable to abuse and neglect. There are many reasons for this such as caring for children with disabilities may place additional demands on carers who may become physically or emotionally abusive as result, children may require more intimate care and thus may be especially vulnerable to sexual abuse and be targeted by perpetrators of abuse.

**125.** Investigations of concerns with this group of children may require a different pace or form of inquiry and/or additional use of resources and workers with specialist knowledge of the child and the child's wellbeing. The investigation should be conducted as detailed in the previous sections, and the involvement of any additional personnel (i.e. to assist with communication) should be recorded defining their role in the investigation.

**126.** Specialist knowledge may be required to advice on pace, style and content which is appropriate given the child's needs. It will be the responsibility of the team manager to ensure the necessary advice and guidance is sought to ensure the investigation is properly resourced to enable the best outcomes for the child. The location of the interview should be selected with specific reference to the needs of the child and where different tools or methods of communication are used the worker using them should be trained to do so.

**127.** Professionals need to be alert to the fact that parents of children with communication difficulties often develop their own methods of communication and 'intuitive

understanding'. ***No person who is implicated in alleged or suspected abuse should be asked to assist in communication with the child as part of the investigative process.***

## Specific Issues to Consider

**129.** It is recognised that children are exposed to risk and significant harm in a number of different ways and the original five categories of registration have been superseded by a wide range of risk indicators. It is recognised that certain types of abuse may require a different type of planning and investigation and these are briefly set out below -

### Physical Abuse

**130.** In many instances of allegations of physical injury it will be necessary to respond urgently. Where appropriate the child should be checked for injuries. How far the workers should go with a physical examination is a matter of professional judgement and although unnecessary physical examinations should be avoided, workers should not avoid this simply because they feel uncomfortable with it. It is a sensitive area and the following issues should be borne in mind when deciding how to proceed –

- Child's and parent's consent
- Gender of the child and workers
- Age of the child

**131.** Where appropriate the child's parent/carer or a trusted family member should be asked to remove the child's clothing to reduce feelings of intrusion.

**132.** If the child has injuries which are suspicious i.e. the parent's explanation is not consistent with the injuries, consideration should be given to seeking medical examination. There should be an **initial referral discussion** between team manager, police, health and education, and agreement reached as to how to proceed. The named person should also be contacted and information shared.

### Physical Neglect

**133.** If the alleged physical neglect is acute, immediate action must be considered. However, in general, emergency measures are not common. This type of concern is more likely to be cumulative. There are overlaps with other types of abuse such as failure to thrive and emotional abuse.

**134.** Unless urgent action is required, the team manager should convene a child protection case discussion to plan intervention. The case discussion may agree the need for a child protection investigation which may result in a child protection initial case conference to be convened to agree the level of risk and to put a multi agency child protection plan in place.

**135.** A comprehensive developmental medical should be considered and discussed with the health Child Protection Team.

### Emotional Abuse

**136.** In general emergency measures are not required and concerns are more likely to be cumulative. It is recognised that children exposed to a range of abuses may also experience emotional abuse such as sexual abuse, neglect.

**137.** The team manager should convene a child protection case discussion to share information and plan future intervention. The case discussion may agree the need for a child

protection investigation which may result in a child protection initial case conference to be convened to agree the level of risk and to put a multi-agency child protection plan in place.

**138.** A comprehensive medical assessment is likely to be required and should be discussed with health.

### **Failure to Thrive**

**139.** If the alleged failure to thrive is acute immediate action must be considered. However, in general emergency measures are not common. Concern is more likely to be cumulative.

**140.** Concerns are usually expressed predominantly about babies and young children.

**141.** The service manager should convene a child protection case discussion to plan intervention. The case discussion may agree the need for a child protection investigation which may in turn require a child protection initial case conference to be convened to agree the level of risk and to put a multi-agency child protection plan in place.

**142.** Medical diagnosis is necessary to planning and decision making. Collation and analysis of previous and present medical information is crucial.

### **Sexual Abuse**

**143.** Consideration should be given to convening without delay a child protection case discussion. The meeting will share relevant information and decide –

- The best way of discovering more information and monitoring the child's situation
- Whether or not an investigation will be undertaken
- If an investigation is to be initiated how this will be carried out and within what timescales

**144.** If it is agreed that a joint police/social work investigation should take place, efforts must be made to avoid alerting the alleged perpetrator of concerns at this stage to prevent the child possibly being intimidated or silenced.

**145.** Where it is suspected that both parents have been involved in sexually abusing a child, consideration should be given to interviewing the child without parental consent.

**146.** Where the referral alleges that only one parent has abused the child, efforts should be made to seek permission from the non-abusing parent to interview the child.

**147.** Partners of alleged sex offenders are usually in a state of shock and may exhibit disbelief, forgetfulness and severe distress. This is often interpreted as taking the side of the perpetrator when in fact it may be an indication of trauma. Efforts must be made to offer support to the non-abusing parent at an early stage as their influence in the situation is central to the future protection of the child. The non-abusing parent should be advised not to alert the alleged perpetrator or alert others who may contact the alleged perpetrator while the investigation is being conducted.

**148.** It may be appropriate for the non-abusing parent to sit with the child during interview, but it has to be remembered that this could inhibit the child who may not wish to upset his/her parent. If it is agreed that the non-abusing parent should be present, consideration should be given to him/her sitting behind the child while the interview is being

conducted, thus avoiding the child seeing the non-abusing parent's distress directly in the event of the abuse being described. All of this requires the parent's and child's consent.

**149.** If a child alleges that he/she has been sexually abused, other children with whom the alleged sex offender has had contact, both within and out with the household, may be interviewed with child's consent and parent's consent where appropriate.

**150.** Consideration should be given to different workers undertaking these interviews, to ensure neutrality.

### **Sexual Abuse by Organised Networks or Multiple Abusers**

**151.** Allegations of sexual abuse involving a number of children and a number of adults, who may or may not be of the same family, are complex. The families may live in areas covered by different local authority areas or in different parts of the country.

**152.** Some of these cases will involve organised abuse such as indecent images of children, recruitment of children for child sexual abuse or trafficking.

**153.** Such investigations will require senior managers from police and social work to agree how the investigation will be managed and what individual roles and responsibilities will be. Key professionals from respective agencies will be identified to co-ordinate the investigation on behalf of their agency and such meetings may be chaired by the Child Protection Team. All child protection concerns will be investigated under child protection procedures.

**154.** Allegations need to be fully discussed within a multi-agency context and the child protection case discussion allows professionals to share information and to consider what course of action is necessary. It allows for careful consideration of the information gathered and ensures that decisions are as well informed as is possible and all courses of action are considered before agreeing any direct intervention.

**155.** The child protection case discussion legitimises decisions to delay investigation/action until an objective assessment is made of the child's circumstances. Initial assessment should always precede actions to remove a child from the family home except in situations of extreme urgency where the child's health and safety may be at risk. The aim is to ensure that correct decisions are being taken which avoid premature removal of the child, which could jeopardise the success of subsequent measures to protect the child.

### **Preparation of the Integrated Assessment Framework Paperwork**

**156.** The social worker(s) should complete the relevant IAF forms at the end of the investigation. This should be checked and counter-signed by the team manager who will then forward to the service manager. The service manager will review the content and recommendation of the report and will counter sign the report adding any comments they consider necessary, especially in a circumstance where no further action under child protection is being agreed. The IAF paperwork will inform the decision as to whether a child protection initial case conference requires to be convened.

**157.** Where a decision has been taken to proceed to initial child protection case conference, the worker should –

- ensure that the IAF paperwork is completed prior to the meeting date

- that the child/parents have had the opportunity to read the report or the worker fully discuss the contents and recommendations
- the chair of the meeting has the signed IAF paperwork **24 hours prior** to the conference

## Involvement of Children & Families

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### Seeking parent's permission to interview the child

**158.** Investigations should be child centred. In normal circumstances communication with children should occur to ensure that efforts are made to hear their views.

**159.** The investigating workers should, wherever possible and appropriate, obtain parental permission to interview the child unless doing so would place the child at risk of significant harm, or potentially jeopardise the investigation. In most circumstances parental consent will be obtained in advance of any interview of the child. Where it has been agreed that an interview of the child will proceed without parental consent, the decision and the rationale upon which the decision was made must be recorded in the client's record by the investigating workers.

**160.** In some cases it may be appropriate to consider interviewing the child in the presence of a non-abusing parent, for example, when a parent insists on this being a condition of the child being interviewed, however, consideration needs to be given to the potential that the child may find it very difficult to talk about what has happened to them in front of a parent.

**161.** *However, while seeking of consent is good practice consent is not always required where it is believed that a child may have been exposed to, or is likely to suffer, significant harm.*

### Parents/Carers Refusing to Give Consent

**162.** In the event of both parents withholding consent for the child to be interviewed, and where there are reasonable grounds to believe that -

- there is an immediate risk to the safety of the child
- the child has suffered, or will suffer, significant harm,
- enquiries are being frustrated by access to the child being unreasonably withheld and access to the child is needed urgently

this must be discussed immediately with the team manager and if necessary with the service manager and a decision reached about proceeding without parental consent.

**163.** Where there is an immediate risk to the safety of the child, the police can consider taking emergency child protection measures under Section 61(5) of the Children (Scotland) Act 1995. The social work department can consider making an application for a Child Protection Order under Section 37 of the Children's Hearings (Scotland) Act 2011. It may be appropriate to act quickly to try to avoid the child being silenced by an alleged abusing adult. Legal advice should be sought in determining either course of action.

## Seeking the child's permission for interview

**164.** It is important that children are consulted about the process. The investigating workers should make efforts not to just "turn up" but ensure, where possible, that a trusted adult prepares the child for their arrival. The two investigating social workers or police officer and social worker should seek the child's permission for interview depending on the age and stage of the child. Although not a legal requirement, it is best practice to obtain a child's consent when wishing to interview. Where the child refuses permission this should be respected, and the child advised that the investigation will continue to its conclusion. They should also be advised of the actions that will be taken in completing the investigation and their views sought as to any concerns. The wishes and feelings of the child should be taken into account where practical throughout the process.

## Keeping the Child and Family Informed

**165.** Throughout the investigation efforts should be made to give the child and their family as much information as possible without jeopardising the investigation or endangering the child's safety.

**166.** At the conclusion of the investigation the family should receive written confirmation of the conclusion of the investigation and the outcome.

# Health Assessment & Medical Examination

## Incident Led or Comprehensive Medical Assessment

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### The Need for Medical Examination/Assessment

**167.** Discussion between medical, nursing, social work services and police should be encouraged at all stages to facilitate good liaison and the sharing of concerns.

**168.** The health assessment should also aim to identify unmet health and wellbeing needs in a vulnerable child and is an essential element of the child protection process.

**169.** Consideration should always be given to the need for a medical examination of each child about whom there are concerns. There should be close liaison with health (Child Protection Advisors police and social work to avoid the need for repeated medical examination for investigative purposes).

**170.** Although a medical examination is not a requirement in every investigation, it needs to be considered by the **initial referral discussion** regardless of whether the child has any apparent or visible injuries or appears neglected. The medical examination should be dispensed with only where the appropriate health professional along with police and social work determines that the child's health and wellbeing is not at risk and those managing the investigation are satisfied that they can achieve the purposes of the investigation without it. Those reasons will need to be clearly recorded. A Medical Referral Discussion (MRD) should be considered as part of the IRD process. The MRD will be undertaken by a Police Officer and Paediatrician at Forth Valley Royal Hospital. If a medical is required arrangements will be made there.

### Initial Referral Discussions (IRD)

**171.** The team manager and the police officer co-ordinating the investigation should discuss the need for a medical examination as part of the IRD with health colleagues. The discussion should consider –

- Whether or not a medical examination or assessment is required and what it is likely to achieve?
- What type of medical is required?
- Who should conduct the medical?
- Where it should be conducted?
- When it should be conducted?

**172.** If it is agreed that it is required, health and police should identify a suitably qualified paediatrician or police medical examiner, and in discussion with social work, agree the timing and location of the examination. Social work may be involved in transporting the child for the medical.

## Purpose of Medical Examinations / Assessments

173. The purpose of medical examinations are –

- to establish what immediate treatment the child may require
- to provide an opinion on whether or not child abuse has occurred
- to contribute to the identification of immediate/future risk and inform the risk assessment
- to provide evidence where appropriate to support a referral to the Reporter or criminal proceedings
- to secure any further medical assistance for the child if required
- where appropriate to reassure the child and family that no long term physical damage has occurred

174. A medical examination/assessment may be undertaken for the following purposes –

- to determine the level of injury and need for forensic/paediatric examination
- forensic/paediatric examination
- comprehensive medical assessment (CMA) over a period of time which may involve psychiatric, psychological and social work assessment

## Medical Assessment

175. Examinations should be sensitive, child centred and conducive to the best possible outcome for the child. The aim is to avoid unnecessary repeat medical examinations.

176. A medical assessment will include –

- full medical history
- physical examination unless the examining doctor is satisfied that this is not necessary
- an assessment of the physical and emotional needs of the child

177. The doctor should explain the purpose of the examination to the child. The child needs to be told that information gained by examination will be shared with others and may also be read out in court or the children's hearing. The child and parents should always be offered the opportunity of discussing any health issues with a doctor experienced in this work. Copy of leaflet can be found [here](#).

**178. *It is important to note that a medical examination may not provide evidence that child abuse has occurred. Absence of medical evidence does not automatically mean absence of abuse.*** Information from medical examinations should be considered alongside information from social work, police the named person and any other relevant agency.

## Comprehensive Medical Assessment (CMA)

179. A comprehensive medical assessment should always be considered in cases of child abuse and neglect, even when information from other agencies show little or no obvious signs or symptoms and some children will require diagnostic procedures only available in a well-equipped hospital or clinic.

**180.** The comprehensive medical assessment has five purposes –

- to establish what immediate treatment the child may need
- to provide information that may or may not support a diagnosis of child abuse when taken in conjunction with other assessments, so that agencies can initiate further investigations, if appropriate
- to provide information or evidence, if appropriate, to sustain criminal proceedings or inform the child's plan
- to secure any ongoing health care (including mental health), monitoring and treatment that the child may require
- to reassure the child and the family as far as possible that no long-term physical damage or health risk has occurred

**181.** In order to make the most effective contribution, the examining doctor must have all the relevant information about the cause for concern and the known background of the family or other relevant adults, including previous instances of abuse/neglect or suspected abuse/neglect. Wherever possible, information from the joint investigative interview should be made available to the examining doctor(s).

## **Forensic Evidence**

**182.** The need for forensic evidence to be obtained should always be considered as secondary to the need for medical treatment of a child. Consideration must also be given to the need for any other connected children in the household to be medically examined.

**183.** The examination is both clinical and forensic and should only be undertaken by a suitably qualified paediatrician and/or a police medical examiner. A joint examination may be necessary in some cases.

**184.** The investigating team should fully brief the examining doctor. Appropriate consent for examination must be obtained, ideally by the doctor undertaking the examination, prior to any examination.

## **Physical Injury**

**185.** If the referral concerns physical injury a medical examination should be sought immediately to ensure the wellbeing of the child. Consideration should be given to photographing the child's injuries timeously which may form part of the evidence for the Procurator Fiscal.

## **Sexual Abuse**

**186.** In cases of any alleged sexual abuse, which is reported to have occurred within the previous 7 days, a medical examination should be considered, as a matter of urgency. This will be to protect the health of the child and to secure and preserve evidence. Where a medical examination is required but not immediately, this can be arranged to suit the child, family and relevant professionals

## **Severe Neglect**

**187.** If physical neglect is severe and requires immediate intervention then action must be taken quickly. In less severe situations where risk is less immediate, time can be taken to plan the medical and consideration given to undertaking a CMA.

## Consent

### The Age of Legal Capacity (Scotland) Act 1991

**188.** The act states that

*'a child under 16 may consent to any surgical, medical or dental procedure or treatment where, in the opinion of the medical practitioner attending him or her, the child is capable of understanding the nature and possible consequences of the procedure or treatment.'*

**189.** The converse is also true, in that they can also refuse or withdraw consent. If the child refuses to give consent, the medical examination cannot go ahead, unless there are urgent or life threatening medical needs. However, the examining doctor may submit notes based upon any observation of obvious injury, behaviour and so on.

### Where Consent is With held

**190.** Where parents/carers withhold consent and the child is unable to give informed consent, then the following possibilities should be considered –

- The Procurator Fiscal can consider obtaining a warrant if a medical examination is thought to be necessary for the purposes of obtaining evidence in criminal proceedings.
- The local authority can apply for a child assessment order
- The local authority can apply for a child protection order.

**191.** In exceptional circumstances where it would not be in the best interests of the child to seek the consent of a parent/carer before the medical examination, legal advice must be sought.

### Medical and forensic examination in cases of sexual abuse

**192.** Informed consent of the non-abusing person with parental responsibility and, where appropriate, that of the child/young person must always be obtained.

**193.** If the police or health practitioner conducting the medical requires to take photographs of the child's injuries additional consent must be sought from the child/young person.

## Additional Considerations

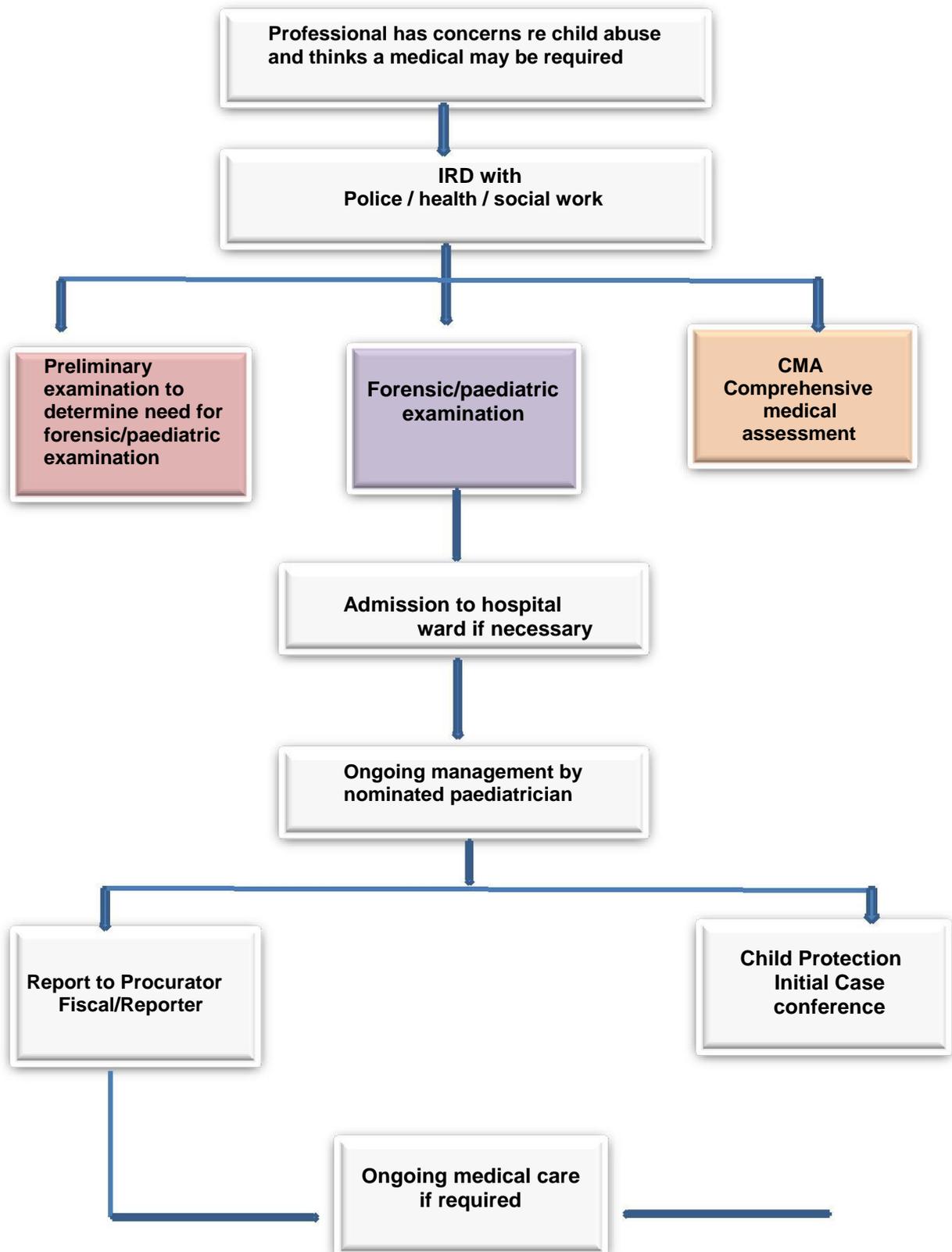
### Gender of medic

**194.** If the child expresses a preference for a male or female doctor, whenever possible, the examination should be carried out by a doctor of that gender.

## Support person for the child

**195.** If the child asks for a particular person to go with them to the examination, this should be considered and facilitated if possible. The support person should have no involvement in the alleged abuse and should only be there to support the child and will not participate in the interview.

## Medical Examination and Child's Health Needs



# Forth Valley Emergency Duty Team

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**196.** As is stated in the Forth Valley Child Protection guidance, out with hours referrals for child protection are facilitated by the Emergency Duty Team (EDT). The responsibilities and tasks of the Emergency Duty Team with regard to child protection referrals are similar to those of daytime social service staff although EDT staff carry the individual authority to make decisions. When a child protection referral is made to EDT a check is made on CFIS and the council's Child Protection Register to establish whether or not the children and family are known to social services.

**197.** The EDT worker receiving the referral will have responsibility for checking the systems and recording information on the EDT referral form. Only if the referral is complex will they need to alert the manager of EDT. For the majority of referrals the worker has authority to initiate an Out of Hours Child Protection Discussion\* (OOH CPD), this is in place of an IRD when out with hours. If Police are the organisation receiving the referral then they will have responsibility for arranging the OOH CPD.

**198.** The agency who initiates the OOH CPD will have the responsibility for completing this form and passing to Police who will ensure it is recorded on the main data base. A copy of the completed OOH CPD should be forwarded along with the EDT referral to the locality team for the next working day. The OOH CPD will cover the same areas and decisions as an IRD. The on call paediatrician should be consulted in relation to medical matters out with hours this will include the planning of any medicals.

**199.** If a decision is that a joint investigative interview (JII) should occur this should be completed by EDT and police colleagues. A JII should only be undertaken out with hours in an emergency and where a child would be placed at risk of future harm. If a decision is to proceed to a JII the EDT will alert the service manager, or if uncontactable the children's services manager.

**200.** The briefing and de-briefing of workers completing the JII will be completed by the EDT manager or Police Detective Sargent and recorded on the standard template. Once completed these should be IDOXED onto the child's file.

**201.** If emergency measures are required to protect a child then these should be discussed and agreed by the service manager or children's services manager. EDT will ensure that all necessary reports and paperwork are completed and copies sent to the appropriate service manager, team manager, allocated worker (if appropriate) for the next working day.

*\*OOH CPD this process is under review, the information noted here reflects the current Forth Valley guidance on IRD's and will be amended if this is changed.*

# Child Protection Case Conferences & Meetings

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## Purpose of Meetings

**202.** There are a number of child protection meetings that will be covered in this section

**203.** Four types of child protection case conferences -

- **Initial child protection case conference (ICPCC)** - considers the circumstances of a child who is not on the child protection register about whom there are serious concerns
- **Review child protection case conference (RCPCC)** - reviews the circumstances of a child whose name is on the child protection register
- **Pre-birth case conference** - considers the risk of harm to an unborn child and future risk upon the child's birth
- **Transfer child protection case conference** - considers arrangements to transfer cases when a family moves to another area

## Initial Child Protection Case Conference (ICPCC)

**204.** The purpose of a case conference is to allow professionals from across services to share information about a child for whom there are child protection concerns. This will allow joint assessment of the information and the risk to the child and determine whether there is a likelihood of significant harm through abuse or neglect that needs to be addressed through a multi-agency child protection plan.

**205.** The National Guidance lays out the core role and function of the CPCC as follows (p99) –

- Ensuring that all relevant information held by the named person and each service or agency has been shared and analysed on an inter-agency basis
- Assessing the degree of existing and likely future risk to the child
- Considering the views of the child or young person
- Considering the views of parents or carers
- Identifying the child's needs and how these can be met by services and agencies
- Developing and reviewing the Child Protection Plan
- Identifying a Lead Professional
- Deciding whether to place or retain a child's name on the child protection register
- Considering whether there might be a need for Compulsory Measures of Supervision and whether a referral should be made to the Children's Reporter if this has not already been done

## Who can request an ICPCC

**206.** The service manager must give serious consideration to a request from another agency for an initial child protection conference in respect of any child. Where significant harm is believed to have occurred, a child protection conference should be convened. If the service manager decides that it is not appropriate to convene a child protection conference the reasons for this must be given **in writing** to the professional who made the request.

## Timescales

**207.** The team manager, in discussion with the service manager, should decide at which point an investigation is complete, usually in consultation with the police. The ICPC should be held as soon as possible and no later than **21 calendar days** from the notification of concern being received. Where possible participants should be given a **minimum of five days' notice** of the decision to convene an ICPC. Where possible the timing of the conference should take account of the availability of other agencies and family members where appropriate. If the decision is taken to convene an initial child protection conference out with this timescale, the team manager must record the reasons for this decision in writing in the casefile.

## Conference Invitations

**208.** The team manager is responsible for identifying who should be invited to the conference and ensuring that invitations are done timeously.

**209.** The **standard invitation letter** should be completed and contain

- a clear explanation as to why the conference is being held
- detailing the name of the child(ren) whom there are concern
- giving the names of all children residing in the family home
- giving the names of all adults residing in the family home and relevant others who have contact with the child

## Invite to the Police

**210.** The police should be invited to the ICPC. The invite should be e-mailed to the PPU and should **not** be sent to the local FP Unit. The police will then make arrangements for the appropriate officer to attend the meeting.

*ForthValleyFPU@scotland.pnn.police.uk*

## Who should attend

**211.** The conference should be attended by the social worker and team manager, preferably those most directly involved in the case. The service manager should not convene a child protection conference with only social work staff. The number of people involved in a conference should be limited to those with a need to know or those who have a contribution to make to the tasks identified.

**212.** In addition to local authority social workers, social work staff from other service areas such as hospitals, prisons, addictions, criminal justice should also be invited where appropriate. The conference should also invite -

- Named Person
- Education staff where any of the children in the family are of school age or attending pre-five establishments
- NHS staff, health visitor/school nurse/GP as appropriate, depending on the child's age, and the child's paediatrician where applicable
- Police
- Consideration should be given to support persons attending on behalf of the parent/carer and this could include solicitors

**213.** In addition, consideration should also be given to inviting voluntary organisations, procurator fiscal, the Reporter and armed services staff where children of services' personnel are involved.

### **Attendance of Parents and Carers**

**214.** Parents/carers or others with parental responsibilities should be invited to the ICPC. They need clear information about practitioners' concerns if they are to change behaviour which puts the child at risk.

**215.** The chair should encourage the parent/carer to express their views, while bearing in mind that they may have negative feelings regarding practitioners' interventions in their family. The chair should make certain that parents/carers are informed in advance about how information and discussion will be presented and managed. Parents/carers may need to bring someone to support them when they attend the ICPC. This may be a friend or another family member, lawyer or an advocacy worker, at the discretion of the chair. This person is there solely to support the parent/carer and has no role within the CPCC.

**216.** The chair may take the decision to exclude an individual from the meeting (for example, where bail conditions preclude contact or there are concerns that they present a significant risk to others attending, including the child). In such circumstances the reason for the decision should be fully recorded on the child protection minute. Where an individual has been excluded, but would normally have a right to attend, the individual will be advised of the outcome of the conference.

**217.** The Chair must be alert to bail conditions that prohibit the parents coming in to contact with one another or the child, and the meeting must be arranged in a way that will manage this situation.

### **Attendance of Children/Young People**

**218.** Consideration should be given to inviting children and young people to ICPC's. Such meetings can be uncomfortable for children to attend and the child's age and the emotional impact of attending a meeting must be considered.

**219.** A decision not to invite the child should be verbally communicated to them, unless there are reasons not to do so. Children attending should be prepared beforehand so that they can participate in a meaningful way, and thought should be given to making the meeting as child and family friendly as possible. Consideration should also be given to the use of an advocate for the child. It is crucial that the child's views are obtained, presented, considered and recorded during the meeting, regardless of whether or not they are present. Where the child has a disability, consideration should be given to whether they will need support to express their views. Where appropriate the child should be part of the core group.

**220.** Reasons for agreeing that older children and young people should or should not attend ICPC's should be noted, along with details of the factors that lead to the decision. This should be recorded in the minutes.

### **Restricted Access Information**

**221.** Restricted access information is information that, by its nature, cannot be shared freely with the child, parent/carer and anyone supporting them. The information will be shared with the other participants at the ICPC. Such information may not be shared with any other person without the explicit permission of the provider

**222.** Restricted information includes –

- Sub-judice information that forms part of legal proceedings and which could compromise those proceedings

- Information from a third party that could identify them if shared
- Information about an individual that may not be known to others, even close family members, such as medical history and intelligence reports
- Information that, if shared, could place any individual(s) at risk, such as a home address or school which is unknown to an ex-partner

### **Provision of reports for the ICPC**

**223.** The investigating social worker should complete the child protection report which must include a completed chronology and resilience matrix. This will be checked and quality assured by the team manager prior to final scrutiny by the service manager. The completed reports will assist the team manager and service manager in reaching a decision as to whether there is a need to progress to child protection initial case conference.

**224.** The IAF paperwork should be available for the conference chair at **least 24 hours** prior to the conference.

**225.** All professionals attending or invited to attend the child protection conference should provide information to the social worker preparing the IAF paperwork. Agencies who are unable to attend should provide a single agency chronology for consideration by the Conference.

### **Further allegations involving a child whose name is already on the child protection register**

**226.** Where another incident of alleged abuse or neglect has taken place regarding a child whose name is on the child protection register, the team manager should ensure that the IAF paperwork is completed and the service manager should consider whether or not a review child protection conference is appropriate.

### **Reaching Decisions**

**227.** The Chairperson must ensure that the views of all participants are heard and considered prior to the decision to register or not. All participants have a responsibility to contribute to the decision as to whether or not to place the child's name on the Child Protection Register. **The Chair will use their professional judgement to make the final decision** based on an analysis of the issues based on an analysis of: the balance of the family strengths and protective factors, the child's needs, and the impact of the risk factors on the child's wellbeing and development. The final decision to register or not lies with the chairperson having taken account of the views of the conference. Any dissent should be fully recorded in the minute.

### **Decision Not to Register**

**228.** Where a decision is taken not to register, and emergency measures are not being sought, consideration needs to be given to the assessment of wellbeing which will inform the child's plan.

### **Continuation of the child protection conference**

**229.** If it is not possible to make a decision on registration or other significant matters at the conference because further information is required then the conference can be continued for a period not exceeding **6 weeks**.

**230.** Where a decision to delay registration is made the case will continue and the same supports should be provided to the family as would apply to a registered case, including the allocation of a social worker to ensure the child is seen and visited weekly.

### **Identification of the Core Group and the Child Protection Plan**

**231.** The initial child protection conference will identify members of the core group and will set out the broad child protection plan which will outline –

- the form of assessment needed to assess risks and to set out agreed timescales and who is responsible (key decisions)
- what action should be taken in urgent circumstances post registration
- the circumstances when they should return to conference
- Who the lead professional will be.
- Ensure that the outcomes scoring is completed for areas of risk

**232.** Within the child protection conference the decision to refer to SCRA, apply for a child protection order or a child assessment order also lie with the chairperson.

### **Post Conference**

**233.** The case ***must be allocated within 24 hours*** of the conference to a named qualified social worker and the team manager identified.

**234.** The team manager should ensure that the minute taker for the conference updates CFIS and advises EDT of the child's registration. A copy of the ***24 hour Key decision letter*** should be immediately distributed to all those in attendance. The Service Manager should also receive a copy of the letter.

### **Social work child protection standards and associated tasks and timescales**

**235.** The following child protection standards and activities should be met -

- Invites for case conferences should be sent out ***5 days*** prior to the conference date. (Initial contact may be made via telephone or e-mail to ensure that invitees have advanced note of the date of the conference)
- The conference Chair will arrange to meet with the family/child prior to the conference
- The IAF paperwork will be available for the Chair ***24 hours*** prior to the date of the conference (as prepared by the social worker and signed off by both the team manager and service manager)
- The content of the IAF paperwork will be discussed with the family/child prior to the case conference by the social worker
- If it is the view of the case conference that the child is in need of compulsory measures of care he/she must be referred to SCRA.
- The initial child protection conference minute will identify *core group members* and responsibilities and lead professional
- An initial draft of the minute should be available to the CPCC chairperson and service manager ***within 5 working days*** of the conference
- Where it is agreed that a child's name be placed on the child protection register this should be done ***immediately*** following the case conference by the designated child protection admin officer
- If any individual dissents the chairperson should ensure that the precise nature of the dissent is recorded and brought to the attention of the Head of Service immediately and agree a course of action
- Following the initial conference the chairperson will ensure that all those in attendance and those individuals invited but did not attend should receive a copy of the conference Key Decisions letter ***within 24 hours***, including details of any conference decisions requiring action by them. A copy of the IAF paperwork and other agency reports should be attached.
- At the conclusion of a child protection investigation, which has resulted in no further action under child protection (i.e. has not gone to case conference), the family should receive a letter from the responsible team manager advising the outcome of

the investigation and detailing any support/action that has been identified as necessary.

## **Child protection conferences and looked after and accommodated children**

**236.** Children who are looked after and accommodated should not normally be placed, or remain on the child protection register. However, it is recognised that there may be some exceptional circumstances where this can be considered e.g. where a child has been placed in kinship care and parental contact continues to cause concern. This should only be a short term measure.

**237.** Where a child is looked after and accommodated any contact/rehabilitation plans should not place the child at risk of future significant harm and therefore, registration would not be appropriate.

**238.** On the rare occasion that a decision is taken at a LAAC review/Children's Hearing for a child to return home and there remains a level of risk, the responsible team manager should discuss this with the service manager and ensure that an initial child protection conference is convened to consider the need for registration. The potential risk to the child has to be fully considered having regard to all relevant information and the best of the interests of the child.

## **Child Protection Review Case Conference (CPRCC)**

### **Function of the review child protection conference**

**239.** Participants will review the progress of the child protection plan, consider all new information available and decide whether the child's name should remain on the child protection register.

**240.** The first review will take place within **three months** of the ICPC. The frequency of reviews thereafter will be determined by the chair taking account of the level of risk and the needs of the child. Reviews would normally take place **three monthly**, however, in some circumstances **six monthly** reviews may be appropriate.

### **Who can request a review conference**

**241.** The service manager must give serious consideration to convening a review child protection conference at the request of a child /young person whose name is on the child protection register or a parent whose child's name is on the child protection register.

Professionals may also request an early review conference.

**242.** If the service manager decides that it is not appropriate to convene a review child protection conference the reasons for this must be given in writing to the agency/professional/parent/child who made the request.

### **De-registration**

**243.** De-registration is the outcome of the child protection review conference only when the Chairperson is satisfied that the abuse or risk of abuse is no longer present or sufficient to warrant continued registration. A child's name should only remain on the child protection register if a detailed assessment indicates that there is continued risk of significant harm. This will be evidenced by a reduction of risk and reduced outcome scores.

**244.** Where a child is no longer considered to be at risk of significant harm and the child protection plan has been converted to a child's plan, their name should be removed from the Child Protection Register. A post de-registration core group should be convened no later than **6 weeks** to ensure the child's plan is reviewed.

**245.** All de-registration decisions should be recorded on CFIS immediately after the review case conference and it is the responsibility of the Chairperson to ensure this happens. The task of updating the register may be undertaken by the minute taker. The minute of the review conference should detail the plan for the child and **outline contingencies** should the situation change and child protection concerns are once again identified.

## Pre-Birth Child Protection Case Conference (PBCPCC)

**246.** The Service Manager should consider convening a Pre-birth Child Protection conference about an unborn child if there appears to be risk of significant harm to the unborn child and/or there is likelihood of such risk when the child is born. A pregnancy may, for example, be considered high risk when one or more of the following is present

- parental substance misuse
- learning disability
- domestic abuse
- mental health issues
- prior history of child abuse or neglect
- where there are concerns that there is a flight risk and the mother/parents may disappear prior to the birth of the child

### Timeframes

**247.** Where serious professional concerns arise about the likelihood of harm to an unborn child, these should be discussed at a pre-birth Child Protection Conference, **at no later than 28 weeks** pregnancy, or in the case of late notification of pregnancy as soon as possible but within **21 calendar days** of the concerns being raised. Where an unborn child is considered to require a child protection plan to cover the period until birth, their name should be placed on the child protection register, together with the indicators of risk or concern.

### Decision Making

**248.** The Pre-birth Conference can consider the following -

- Whether it is safe for the child to go home at birth
- Tasks to be undertaken by the various agencies to support and prepare parent's before the child's birth
- Whether there is a likelihood of future significant harm and whether the unborn child's name should be placed on the Child Protection Register
- If there is a need to seek and secure a Child Protection Order at birth
- Whether the child's safety and wellbeing can be adequately protected and promoted without the need for child protection measures
- At birth whether supervised access is required between the parents and the child and who will undertake this if needed
- Whether there should be a child protection review conference
- Or whether a post birth planning meeting should held **within 10 working** days of the child's discharge and a handover to community based supports

### Parents Attendance

**249.** Parents/carers should be invited to a Pre-birth Child Protection Conference and should be fully involved in planning for the child's future, unless this would increase the risk of harm to the unborn child e.g. increase the risk of violence to mother and unborn child, prompting the family to avoid contact with the ante-natal services or move out of the area.

## Registration

**250.** It should be noted that as the child protection register is not regulated by statute, an unborn child can still be placed on the Register. Where an unborn child is felt to require a Child Protection Plan, their name “unborn and family name” should be placed on the Register. Following the birth of the child a Child Protection Review Conference should be held **within 5 days** of the child’s birth.

## Accommodation at Birth

**251.** When you have an unborn baby on the child protection register and the decision is to accommodate at birth, the review child protection case conference should fulfil the dual role of the child protection review conference and the initial LAAC meeting.

## Transfer Child Protection Case Conference (TCPCC)

**252.** A Transfer Child Protection Conference is a multi-agency child protection meeting which considers the arrangements to transfer cases of children who are on the Child Protection Register, when a family moves from one local authority area to another or from one team to another within the local authority area. ***A child’s name cannot be removed from the Child Protection Register at a Transfer Child Protection Conference***; this can only be done at a Review Child Protection Conference.

**253.** The local authority receiving the case will chair the Transfer Conference. Refer to Section 9 for full details.

## Child Protection Planning Meeting

**254.** Sometimes it is necessary to convene a Child Protection Planning Meeting at the initial referral stage if a case is particularly complex in order to share information, agree the level of concern and what action may be necessary. This multi-agency meeting considers the circumstances of the child where there are particularly complex concerns such as neglect, sexual abuse and emotional abuse. Strengths within the family and the family’s capacity to co-operate with agencies should be discussed.

**255.** A child protection planning meeting is normally a professionals meeting.

**256.** The Child Protection Planning Meeting may take place in the following circumstances:

- Accumulation of concerns such as in cases of neglect
- Sibling abuse, multiple abuse involving a number of children, internet abuse, child trafficking,
- Cases of sexual abuse, child sexual exploitation
- Inter-generational or institutional abuse
- Allegations against foster carers/staff members

**257.** Any agency may contact Social Work Services to request a child protection planning meeting on a child whom they have particular concerns. The service manager will make a decision as to whether to proceed to a child protection planning meeting or not. The Referrer should be advised of the decision to proceed or not and be provided with the rationale for supporting either course of decision.

## Referrals to the Reporter

**258.** If it is the view of the child protection conference that the child is in need of protection, guidance, treatment or control; and it might be necessary for a Compulsory

Supervision Order to be made in relation to the child he/she must be referred to the Children's Reporter. Early intervention and Compulsory Measures of Supervision are not mutually exclusive, early use of Compulsory Measures of Supervision may help to ensure compliance and prevent concerns from escalating. This must be fully recorded on CFIS by the team Manager.

**259.** It is the responsibility of the Team Manager to ensure that where required the IAF paperwork and Plan is submitted to SCRA. This should include a clear recommendation about the need for compulsory measures. A covering letter should also be submitted clearly stating that this report should be considered as a referral.

**260.** Decisions by Children's Hearings or courts which are inconsistent with the decisions made at the child protection conference the team manager should immediately alert the service manager, in order that a decision can be taken about what action may be necessary to ensure the child's safety and wellbeing. Consideration should also be given to seeking legal advice and contact with the Children's Reporter is also encouraged.

## Minutes of Child Protection Meetings

**261.** Minutes are an integral and essential part of the meeting and should be recorded by a suitably trained admin worker and agreed by the chairperson before being circulated to the participants. Participants should receive the minutes within **15 calendar days** of the CP meeting.

**262.** To avoid any unnecessary delay in actions and tasks identified the chair should prepare the Key Decision Letter which will record key decisions and tasks for circulation within **24 hours of the meeting**.

**263.** The 24 hr Key Decision Letter and Minutes should be distributed to invitees who were unable to attend and members of the core group, as well as meeting attendees. The service manager should also receive a copy.

**264.** Minutes need to be clearly laid out and should as a minimum record –

- Reports received
- A summary of the information shared
- The risks and protective factors identified
- The views of the child and parents/carers
- The decisions, reason for the decisions and note of any dissent
- The outline Child Protection Plan as agreed at the meeting, detailing the required outcomes, timescales and contingency plans
- The name of the lead professional
- Membership of the Core Group (as appropriate)

**265.** Where a parent/carer has a support person attend the meeting, they **should not be sent** a copy of the minute or decision letter. It will be the decision of the parent/carer as to whether they share this information with the support person.

# Dispute Resolution

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## Complaint / Appeal / Dissent

**266.** It is important that there are clear distinctions made between a complaint about a service, a difference of opinion or dissent and an appeal against a registration decision or a child protection conference, as these are dealt with differently.

## Complaint

**267.** A complaint may be made by a parent, carer, child or young person when they are unsatisfied with an aspect of a service provided to them. Every agency involved in the child protection process has their own complaints procedures and those who wish to complain should be fully advised of social work services' complaints procedure.

## Difference of Opinion

**268.** The chairperson of the child protection conference has the responsibility to identify underlying conflicts of information or opinion, to highlight them and ensure that they are discussed and resolved where possible. These are regarded as differences of opinion or professional judgment and this is seen as separate from dissent.

**269.** If disagreement, differences in opinion persists after full multi agency discussion, it must not be allowed to prejudice the child's safety and wellbeing which must remain the paramount consideration.

**270.** Differences of opinion over judgments will not normally require any further response. They will be recorded in the minute and if any professional remains dissatisfied following the meeting, they should raise the matter with their own line manager.

## Abstaining from the Registration Decision

**271.** All conference participants are expected to contribute to decisions about registration. If they fail to do then they are considered to be abstaining. Where a professional abstains from participating in the registration decision, this should be recorded then brought to the attention of the service manager immediately after the meeting. The service manager will agree a course of action and this is likely to involve them advising the relevant senior manager of the agency/service which failed to contribute to the decision.

## Dissent

**272.** Any dissenting views with the decision to de-register the child's name should be recorded in the conference minute and immediately brought to the attention of the Head of Service by the Chairperson.

**273.** It will be the responsibility of the Head of Service to review the conference decision. The outcome of the review will be either to re-convene the meeting or uphold the original decision.

**274.** The Head of Service should confirm in writing to the individual who dissented to the outcome of their review **within 28 days** and should be recorded in the child's file.

**275.** Social work personnel may express their view with regard to the level of risk and the action necessary; however, they cannot dissent to the decision taken by the chairperson. If social work personnel do not agree with the meeting decisions, they should raise their concerns with their line manager.

## Appeal Registration

**276.** Only a parent/carer or child/young person has the right to appeal against a decision to –

- Register
- Retain on the register
- De-register
- Not to register

**277.** A parent/carer may wish to challenge the basis for this decision because they believe that -

- the child protection conference has not been run in accordance with the child protection procedures
- the facts of the case on which the decision is based are incorrect
- the decision is not justified by an analysis of the facts of the case (the criteria for the child being registered were not met – the risk/likelihood of significant harm is not demonstrated)

**278.** The chairperson should ensure that parents and young people are aware of their right to appeal decisions about registration

**279.** Whilst an appeal is being considered, the decision made by the conference stands.

## Appeal Process

**280.** Parents/carers may appeal a registration decision by contacting the Head of Service **within 5 working days**. This should be in writing and the social worker can assist with this if necessary.

**281.** The Head of Service should review this decision and respond in writing to the person who made the appeal **within 28 days**.

**282.** The Head of Service's decision is final.

## Appeal Upheld

**283.** If the appeal is upheld, a review child protection case conference should be reconvened. The reconvened conference should be chaired by a service manager (who has no responsibility for the case) who will provide the conference with full details of the issues that resulted in the appeal being upheld.

**284.** The reconvened conference should cover the following –

- Conclusion of the appeal and associated circumstances
- Any new information or changes in the child's circumstances since the original conference which may have a bearing on current/future risk of significant harm
- Child's plan and role/responsibilities of those involved in delivering the plan
- Any changes to lead professional

**285.** The reconvened conference requires to consider the need for future registration in light of the upheld appeal with regard to the previous conference.

**286.** Records should not be destroyed, but rather amended to reflect the outcome of the appeal and the decisions of the reconvened conference.

## Appeal Not Upheld

**287.** If the Head of Service concludes that the procedures relating to the conference were correctly followed and that the decisions were reasonable, they are required to confirm that the conclusions of the original conference remain and these will be reviewed when the next conference is held.

## Further Challenge

**288.** No further processes for appeal exist in those cases where it is concluded that all relevant process were followed and that the decisions that were made were reasonable and appropriate.

# Movement of Children who are on the Child Protection Register

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## Transfer of a Case to Another Local Authority Area

**289.** When a child who is on Clackmannanshire's Child Protection Register moves to a known address (either suddenly or on a planned basis) in another local authority area, whether permanently or temporarily, consideration must be given to the impact on the continuing risk of significant harm and the need for ongoing management of the case. In every case it is the responsibility of the team manager to consider the circumstances of the move and the action required.

**290.** The team manager will -

- Be responsible for **alerting the C&F Manager in the receiving LA** that the child is now residing in their locality. This will be done initially by telephone and followed up in writing either by secure mail or email. Initial discussion should occur regarding how the change may have affected the continuing risk of significant harm
- Request that the **Keeper of the Child Protection Register in the receiving LA** record the circumstances as a temporary registration and request that the **receiving LA Out of Hours** service is advised of the circumstances
- Alert the **Children's Reporter** where the child is subject to a Supervision Requirement or proceedings through the Children's Hearing
- Give consideration as to whether a **Review Child Protection Conference or a Transfer Child Protection Conference** might be required and interim arrangements for continued management of the case. Continued management can be carried on solely by Clackmannanshire or with support from the receiving LA.

### De-Registration where risk is believed to have reduced as a consequence of the move

**291.** If the circumstances indicate that there has been a reduction in the risk of significant harm then a **Review Child Protection Conference** should be convened to consider the need for continued registration. Arrangements for this meeting will be the responsibility of Clackmannanshire.

**292.** The social work manager and any other relevant agency/service representative from the receiving LA should be invited to attend the RCPCC. The team manager in discussion with the receiving social work manager should agree who will attend from the receiving LA. The meeting should be held, where possible, **within 14 calendar days** and **no later than 21 calendar days** after the child moved out with Clackmannanshire.

**293.** Responsibility for the continued management of the case lies with Clackmannanshire. If the review determines that de-registration can take place then notification of this should be passed to the receiving LA using the standard **24 hour**

**decision letter.** The Clackmannanshire child protection register should be immediately updated.

**294.** If the decision is to de-register then the receiving LA will assume responsibility for addressing any care and wellbeing issues in line with local arrangements.

### **Continued Risk and Registration**

**295.** Where risk of significant harm is believed to remain a **Transfer Child Protection Conference** should be held.

**296.** It is the responsibility of a team manager (or equivalent) from the receiving LA to make arrangements for convening and chairing the transfer meeting. This should be held where possible within **14 calendar days** and no later than **21 calendar days** of notification that the child has moved into the area and the level of risk of significant harm remains unchanged or has escalated.

**297.** At the Transfer CPCC, the minimum requirement for attendance from Clackmannanshire will be the team manager and social worker responsible for the case.

**298.** The team manager (or equivalent) from the receiving LA should liaise with the team manager in Clackmannanshire. Both managers will share information on the case and arrange for the transfer of relevant case information including copies of -

- the child protection plan
- the most recent assessments
- an up to date chronology
- a copy of the most recent Review Child Protection Conference minutes
- the initial IAF paperwork for the matter that resulted in registration

**299.** This information is to be sent as soon as possible by secure email. Hard copies of the original social work case records and/or file are to be sent on in due course, by secure means. A copy should be retained by Clackmannanshire.

### **Interim Care Management Responsibilities**

**300.** Both managers will discuss and agree arrangements for continued management of the case until the transfer case conference is held. At the transfer case conference the receiving LA will assume responsibility for management of the case. In the event of any disagreement or dispute this should be referred immediately to the service manager and the respective line manager in the receiving LA to enable review and a prompt consensus to be reached.

## **Transfer of Child Protection Cases Within the Same Team**

**301.** Before a registered case is transferred from one worker to another within the locality team, a full written transfer summary must be completed -

- A joint briefing meeting involving the respective workers and their team managers must be held.
- A joint transfer visit to the family by the relevant social workers must have taken place.
- Transfer of the case will take place at the next core group or review case conference.

# Child Protection Core Group

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## Core Group and the Management of Risk

**302.** Following registration it is essential that agencies work together in a clear and focused manner to protect the child from the risk of future harm and to work to ensure they achieve their potential. While the Core Group has the central responsibility for working to ensure the protection and wellbeing of a child on the Child Protection Register, the social worker as Lead Professional is central to ensuring the effectiveness of interagency working.

## The Child Protection Core Group

**303.** The Child Protection Core Group consists of professionals and individuals identified by the Child Protection Case Conference as having a significant role or function in working to achieve the protection of the child. The Core Group may invite additional members to join if it becomes apparent that their involvement is required to facilitate the effective protection of the child.

**304.** The Core group is tasked by the Child Protection Conference with formulating, implementing, monitoring, reviewing and amending the child protection plan in line with the recommendations of the Child Protection Conference, and subsequent events and assessments. They will also complete the initial scoring of the Outcomes Framework and will review these scores in relation to changes in risk related to the child protection plan.

**305.** Parents should normally be invited to attend Core Groups, and may bring a supporter. The parent or supporter may be excluded by the Chair of the Core Group. In such instances the reason for the individual's exclusion should be fully recorded.

**306.** The Initial Core Group meeting must be convened and chaired by a Team Manager **within 10 calendar days** of a child's name being placed on the Child Protection Register.

## The purpose of the Meeting

- 307.** The initial child protection core group meeting will -
- Make arrangements for the completion of a child protection risk assessment and other such assessments as may be required
  - Complete the scoring of the Outcomes Framework in connection to the risks identified within the child protection plan
  - Agree the details of the Child Protection Plan or Pre Birth Plan including consideration of the child's immediate and long-term protective and wellbeing needs
  - Identify those areas for intervention and change including those that are apparently resistant to change
  - Establish the roles and responsibilities of each Core Group Member
  - Ensure that there are arrangements in place in order that the child is seen at least once each week by a professional member of the Core Group

- Establish the arrangements whereby the child is seen alone by a professional member of the Core Group with whom they have a trusting relationship

## Frequency of Core Group Meetings

**308.** The Core Group shall be convened, and meet at the frequency, as determined by the Child Protection Conference. Core groups should be held **no less than 4 weekly** following the initial core group. Arrangements for timing, and venue of meetings should be agreed by the Core Group, and reflect the needs of all members.

**309.** Any member of the Core Group may request that an interim Core Group be convened. The team manager must consider the appropriateness of this request, and where it is agreed necessary organise a meeting within **5 calendar days** on receipt of the request.

## Responsibilities of Core Group Members

**310.** Each member will be responsible for ensuring that -

- The actions and responsibilities outlined in the Child Protection Plan have been carried out
- The wellbeing and safety of the child is monitored
- The work of the Core Group is co-ordinated and that the members of the Core Group are aware of each other's roles, responsibilities and activities
- The views of the parents and of the child are identified and responded to within the plan
- The child has a consistent relationship with a professional member of the Core Group, whom they trust
- The protection plan is amended and updated in response to changes in assessment of risk and need, and outcome scores are updated

## Lead Professional

**311.** Every child on the Child Protection Register must have an allocated social worker of appropriate experience and skill to carry out the tasks allocated to them within the Child's Plan. The social worker will be the Lead Professional.

**312.** The roles of the lead professional shall be to -

- Co-ordinate and support effective inter-agency working
- Undertake and update the child protection risk assessment and a multi agency chronology
- The child should be seen on their own at least once a week and the child should be observed both in their home and other settings. Depending on the age and stage of the child the worker should record who is present when they saw the child
- Undertake any subsequent child protection investigations that may be required

**313.** **Visiting and observing by other professionals** must take place at a frequency and in a manner appropriate as identified by the Core Group. Where there is disagreement over frequency and nature of visits, the team manager requires to discuss this with the service manager.

**314.** Continued failure to gain access to the child over the week, must be discussed with the team manager and any risks or need to take additional action considered.

**315.** Where the **Lead Professional is absent or unavailable** to undertake visits to see the child in their home environment the team manager should agree the most appropriate arrangements to fulfil any tasks allocated to social work in the Child Protection Plan. This will involve the team manager/intake team manager making arrangements for a QSW to undertake the visit and may be supported by additional core group member contact.

## The Core Group Reporting in to the Case Conference

**316.** The core group will report back to the RCPCC on the progress of the Child Protection Plan. Where a core group identifies a need to make significant changes to the plan, they should notify the service manager **within 3 calendar days or as soon as is practicable**.

## The Child Protection Plan

**317.** The Child Protection Plan must be completed and a signed copy circulated to all members of the Core Group within **15 calendar days** of the Initial Core Group meeting.

**318.** The Child Protection Plan should set out in detail –

- The perceived risks and wellbeing – consideration needs to be given to immediate and short term risks as well as longer term risks to the child
- What is required to reduce these risks and meet those needs
- Who is expected to take any tasks forward including parents/carers and the child themselves

Children and their families need to clearly understand what is being done to support them and why.

**319.** In addition the Child Protection Plan needs to clearly identify

- The agreed outcomes for the child or young person
- Key people involved and their responsibilities, including the Lead Professional and named person and other key professionals
- Timescales
- Supports and resources including unmet need
- The longer term needs of the child and young person
- The process of monitoring and review
- Any contingency plans

**320.** Any interventions should be proportionate and clearly aligned to desired outcomes for the child. Progress can only be meaningfully measured if the action or activity has had a positive impact on the child.

**321.** Parents and the child (where of sufficient understanding) must be invited to sign the Child Protection Plan to indicate their understanding of the plan. Where parents or the child decline to sign the plan, any reasons for this refusal and any dissent from the plan must be recorded on the Plan and a copy provided to the parents for their information. A lack of consent must not prevent the implementation of the Child Protection Plan.

## Criminal Injuries Compensation

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**322.** Criminal Injuries Compensation (CIC) compensation gives a clear message to children and young people that

- They were not responsible for the abuse which they suffered
- What happened to them was wrong
- Society acknowledges this through awarding compensation

**323.** This serves to enhance the important messages given to children and young people. While financial recompense can never fully compensate for the abuse suffered by many children, it can bring important material assistance at key stages in their lives.

### Eligibility

**324.** Children who have suffered significant harm either within or out with the family as a result of abuse may be eligible for CIC. Other children or non-abusing adults who have a relationship with the abused child may also be eligible for compensation if they are secondary victims. Professionals should be aware of this scheme and should consider whether any child for whom they are responsible is eligible to apply.

**325.** There are two important elements

- The injury must have been reported to the police, unless there are good grounds to argue for this condition to be waived. Prosecution is NOT a prerequisite.
- The injury, either physical or psychological, must be assessed as meriting an award

**326.** Applications for CIC should be made within two years from the date of the crime but the time limit can be waived in any case if the Criminal Injuries Compensation Board thinks it is reasonable or it is in the interests of justice to do so.

### Consideration of CIC Within Child Protection Meetings

**327.** Consideration as to whether or not the CIC may apply should be a standing item at all initial and review child protection conferences. It is the responsibility the child protection chairperson to ensure that reasons are recorded within the appropriate minutes as to why the decision was reached to proceed / not to proceed with an application.

### Negligence

**328.** It is crucial that scrutiny is given to the above as Clackmannanshire Council can be held liable if it fails to make a claim. Action may also be taken against the Council if it accepts an inadequate offer of compensation on behalf of the child.

**329.** Children and young people who have been abused in residential care are also entitled to claim compensation.

## Transition Planning

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**330.** The move from child to adult services presents significant risks. Young people at this transition stage can drop out of services altogether, losing their safety net of support. The risk is exacerbated by the fact that different agencies have different criteria for defining when someone becomes an adult, or can access particular services. The importance of ensuring appropriate planning to support these transitions is vital. For further guidance on this area please refer to the Forth Valley Transitions Guidance. (*attach hyperlink*)

**331.** Both Children and Adult Services in Clackmannanshire should consider how best to manage transition. A GIRFEC assessment will identify the needs of the young person and identify what interventions they might need to support, and if necessary, protect them in adulthood.

**332.** Children and Adult services must collectively take responsibility to manage this transition effectively.

**333.** The Children & Young Persons (Scot) Act 2014 states that adult protection intervention for 16 and 17 year olds will be managed through the child's plan. This is reinforced in the National Child Protection Guidance (Sect 23). Both children and adult services will require to work together to ensure a co-ordinated plan is in place for the young person who may be transitioning services, or may come to the attention of services after their 16<sup>th</sup> birthday.

## Children Who Go Missing on the Child Protection Register

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**334.** When a child goes missing whose name is on the child protection register the team manager should immediately notify the service manager. All attempts should be made to trace the child and assess their current circumstances.

**335.** The disappearance of the child should be reported to the Keeper of the Child Protection Register and the Children's Service Manager.

**336.** The team Manager should report the child missing to Police Scotland and a Review Child Protection Case Conference should be convened to consider the circumstances and identify any further action that might be necessary.

### Action out with Clackmannanshire

**337.** Where a child goes missing and it is believed that the family are no longer residing in Clackmannanshire it may be necessary to send out either a Scottish or UK wide Missing Persons Alert to Local Authorities.

**338.** A national missing person alert should be discussed and co-ordinated with the Keeper of the register.

**339.** In addition, discussion should take place as to whether it is necessary to request a Benefit Agency Check which would be facilitated.

**340.** If the child is found the keeper of the register and partner agencies should be immediately updated to allow alerts to be cancelled.

**341.** A review case conference should be convened on a regular basis to update all professionals with regard to the current situation and agreement as to what action, if any, is necessary. If we fail to trace a child, the conference requires to take an informed view as to how long the registration should continue and at what point a decision is taken to de-register.

### Children Returning to Their Country of Origin

**342.** In such circumstances it may be necessary to link directly with social work services in the country of origin to ensure that the child has returned and that their safety is being assessed locally.

**343.** It may be necessary to link with the appropriate Embassy with regard to social work contacts within the country. In some instances it may be necessary to link with Children and Families Across Borders (CFAB) who can liaise with social work services in a number of countries around the world. CFAB will charge for this service and any such action will require to be agreed by the service manager.

### Central Authority for Scotland Functions

**344.** Under the Hague and European Conventions the Minister for Justice acts as the Central Authority and their functions are supported by the Scottish Executive Justice Department. The Scottish Executive is entirely neutral in the process and can act as a conduit between Scotland other countries in the transfer of information.

**345.** The responsibilities of the Central Authority are set forth in Articles 7,12 and 21 of the Hague Convention and Articles 3 and 5 of the European Convention. The Central Authority for Scotland 's role is that of an active facilitator. It serves as an information point between Contracting States, solicitors and members of the public. The Central Authority advises on the working of the Convention and provides updates on the status of cases to involved parties.

**346.** The Central Authority in the country to which the child has been abducted has the primary responsibility for processing an application. The Central Authority for Scotland will arrange for applications to be transmitted to other countries and if necessary arrange for translations. Broadly speaking, there should be no costs involved in pursuing a return or seeking contact under either Convention.

**Central Authority for Scotland**

**St Andrews House Edinburgh EH1 3DG**

Contact [Dawn.livingstone@scotland.gsi.gov.uk](mailto:Dawn.livingstone@scotland.gsi.gov.uk)

Telephone 44 (0) 131 244 4827

# The Legislative Framework to Emergency & Planned Protective Measures

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## Legal Measures to Protect Children at Risk

347. These procedures should be read in conjunction with –

- *Children's Hearing (Scotland) Act 2011*
- *Children (Scotland) Act 1995*
- *Children (Scotland) Act 1995. Regulations and Guidance, Volume 1, Chapter 7*
- *National Child Protection Guidance 2014.*

348. Although voluntary measures to protect children should be used where possible, there are three court orders which are specifically aimed at protecting children from harm. The orders are –

- **child assessment order** (Section 35 to 36 of the 2011 Act)
- **child protection order** (Section 37 to 59 of the 2011 Act)
- **exclusion order** (Sections 76 to 80 of the 95 Act)
- in addition the police have emergency child protection measures under section 56 of the 2011 Act.

349. The above legislation places the child's welfare as paramount. Before granting an order, the Sheriff will have to be satisfied that there are reasonable grounds to believe the ***child has suffered, is suffering or is likely to suffer significant harm*** and that the order is necessary. The specific legal requirements for the various orders are described below.

350. The term **significant harm** is not defined in the act. Therefore staff considering an application for an order will need to make a judgement, based on the information available regarding the child(ren) concerned, about whether the criteria for granting the particular order have been satisfied.

351. The decision about which order is most appropriate should always be governed by what is in the best interests of the child. The court will also require to be satisfied when considering an application that making an order for the child is better than making no order at all.

352. The sections which follow outline the procedure with respect to each of the three orders and cover the following areas:

- what each of the orders can do
- what conditions have to be satisfied in order to obtain each order
- the steps to be taken before applying for any order
- the information required for an application
- the procedure for making an application
- the action to be taken following a sheriff's decision.

## Child Assessment Order

### What is a child assessment order?

**353.** A child assessment order is an order of the court authorising an assessment of a child's health and development and of the way a child is being treated. A child subject to a child assessment order is a **looked after child**.

**354.** A sheriff may make directions regarding the contact which the child should have with the parents, other family members and any person named in the order. Any such direction must be complied with by the local authority.

### Conditions to be satisfied before an order can be obtained

**355.** In the course of fulfilling their duty under Section 60 of the **Children's Hearing (Scotland) Act 2011** to inquire into information which suggests a child may be in need of compulsory measures of supervision, a local authority may consider it necessary to seek a child assessment order.

**356.** In order to satisfy a sheriff that such an order is necessary the following three conditions set out in Section 36 require to be met –

- the local authority must have reasonable cause to suspect that the child for whom the order is being sought is being so treated or neglected in such a way that he/ she is suffering, or is likely to suffer, significant harm
- such assessment of the child is required in order to establish whether or not there is reasonable cause to believe that the child is so treated (or neglected)
- such assessment is unlikely to be carried out, or be carried out satisfactorily, unless the order is granted.

### Steps to be taken before applying for an order

**357.** When considering whether an application for a child assessment order is appropriate it is important to recognise that assessment will be the key to decision making about the needs of children and their families. It will be consistent with good practice and the principles of the **legislation** to assess, first and foremost, whether the child is 'in need'. That assessment will also consider whether one of the child's needs is to be protected.

**358.** In keeping with the principles of the act such an assessment should, wherever possible, be undertaken without the need for a statutory order, in co-operation with parents and taking into account the views of the child.

**359.** The duty on local authorities "to cause inquiries to be made" under Section 53 of the Act should be explained to parents and the opportunity given for them to explain their point of view. Parents who continue to refuse to allow their child to be seen or assessed should be advised of the options when there are concerns about a child's safety, including application for a child assessment order and the effects of this and other child protection measures. A copy of the parent's leaflet should be left with the parents.

**360.** A child assessment order is not an emergency order. The decision to apply for it should be planned and only be made after a process of consultation with other agencies. When consideration is being given to the necessity for an application for an assessment order this should be discussed with the team manager/service manager.

**361.** Before making a decision about the need for a child assessment order the team manager should, wherever possible, convene a child protection case discussion/review child protection case conference to consider the matter. Child protection case discussions should involve representatives of appropriate agencies, in particular health and education staff. The local team manager should consult with **legal services to give notice of such a request for assistance and seek advice.**

**362.** The case discussion should consider whether the criteria for a child assessment order are satisfied. It should pay particular attention to whether co-operation may be obtained in any other way and whether, in the circumstances, the child assessment order is the most appropriate measure to be sought. The case discussion should consider any difficulties likely to be encountered in implementing the order, if granted. In particular it should consider whether assistance may be required from the police/sheriff officers to enforce the order.

### **Information required for an application**

**363.** The main determinants of the decision to seek an order will be evidence of –

- the degree of significant harm suspected
- the occurrence or likelihood of this harm
- the extent to which attempts to proceed with parental co-operation have failed

**364.** Where a decision has been made to seek an order, the case discussion should consider the need for the provision of information from each appropriate agency to support the application. This may range from the provision of information towards the assessment, to active involvement in the assessment process.

**365.** The minute of the case discussion should record decisions made and any agency disagreements. It should also record the views of the child and how they have been ascertained and record decisions of the case discussion regarding any directions or conditions that may require to be sought.

### **Procedure for making an application**

**366.** Following a decision to apply for a child assessment order the team manager should contact the council's legal services and request that they make the application. The minute of the case discussion and any other relevant information, including reports from other agencies such as school and health services, must be made available to the appointed solicitor, with a minimum of delay.

**367.** The team manager should consult with the appointed solicitor about whether social work personnel should accompany the solicitor making the application.

**368.** The application will be made by the appointed solicitor (including service of the documentation).

### **Action following sheriff's decision**

**369.** Following the granting of a child assessment order, the order will be served on the appropriate parties by the appointed solicitor. The social worker should notify the Reporter of the granting of a child assessment order as a referral. Notification of the application will not be treated as a referral, although if notification is given a record for information purposes will be kept.

**370.** The team manager will ensure that the assessment, with any conditions attached, is undertaken as a matter of priority and, in any event, before the expiry of an order. If at any point information available suggests that the conditions for a child protection order or exclusion order are satisfied then the appropriate order should be sought without delay (see procedures for other orders).

**371.** Within 7 days of the expiry of the order, the team manager should convene and chair a case discussion. The purpose of this meeting is to consider the conclusions of the assessment and to decide on what action should be taken.

**372.** The team manager should ensure that the family are notified of the results of the assessment at the earliest opportunity and the action, if any, proposed by social work.

## **Child Protection Order**

### **What is a child protection order?**

**373.** The purpose of the child protection order is to ensure that where necessary urgent action can be taken to remove a child to a place of safety or to prevent the removal of a child from a place where he or she has been accommodated.

**374.** A child protection order can do any of the following –

- require any person in a position to do so to produce the child to the applicant
- authorise removal of the child by the applicant to a place of safety, and the keeping of the child in that place
- authorise the prevention of the removal of the child from any place where he or she is being accommodated
- authorise an assessment of the health or development or the way a child has been treated or neglected
- make any authorisation necessary to safeguard or promote the welfare of the child

**375.** A child subject to a child protection order is "**a looked after child**".

**376.** The duration of the order is limited to a maximum of 8 working days from the date of implementation.

### **Conditions to be satisfied before an order can be obtained**

**377.** Under Section 39 of the 2011 act a local authority or any person may apply to the sheriff for a child protection order if there are reasonable grounds to believe that a –

- child is being treated or neglected in such a way that he/she is suffering significant harm
- or will suffer such harm, that the child is likely to suffer significant harm if the child is not removed to and kept in a place of safety
- or the child is likely to suffer significant harm if the child does not remain in the place where the child is staying.

**378.** The sheriff also has to be satisfied that such an order is necessary to protect the child from such harm or further harm.

**379.** The court may make directions relating to contact with the child and the exercise of the parental rights and responsibilities, as well as directions regarding an examination of the physical or mental state of the child. The court can also make directions in relation to the non-disclosure of the proposed place of safety or any other information.

**380.** In terms of Section 38 of the 2011 act, on application by a local authority (and only a local authority), the sheriff may make a child protection order if satisfied that the following conditions are met -

- that the applicants have reasonable grounds to **suspect that a child is being or will be treated or neglected in such a way that he/she is suffering, or will suffer significant harm**
- that the local authority are making or causing to be made inquiries to allow them to decide whether they should take any action to safeguard the welfare of the child
- that their inquiries are being frustrated by the unreasonable denial of access to the child in circumstances where the local authority has reasonable cause to believe that such access is required as a matter of urgency.

### **Steps to be taken before applying for an order**

**381.** Before deciding to apply for a child protection order there are a number of matters which should be considered

- an assessment of the alternatives to an application for the order
- the ascertainable wishes and feelings of the child, having regard to the child's age and understanding
- the child's physical, emotional and educational needs, including any special need during the period of the order if made
- the likely effect on the child of a change in circumstances which might result from an application for an order
- the child's age, gender and family circumstances
- the circumstances giving rise to the application
- the need for any directions relating to, for example, contact and assessments and which the court may attach to the child protection order if made
- the nature and effect of any other orders or requirements already made in respect of the child, for example, a residence order, contact order or supervision requirement.

**382.** Before making an application for a child protection order the social worker must consult with their team manager who in turn must discuss the matter with their service manager.

**383.** The authority's legal services should be consulted when a CPO is being considered and they will prepare the application. It may also be appropriate to advise any relevant person and/or their legal adviser of the plan to proceed with a CPO application with a view to them being present at the first calling of the application. If you are in any doubt then you should discuss with legal services and refer to any briefing notes issued.

### **Information required for an application**

**384.** All applications for a child protection order must be made to a sheriff. Justices of the Peace cannot make child protection orders (although they can authorise the use of emergency child protection measures in specific circumstances.)

**385.** All applicants for a child protection order must demonstrate to the sheriff that the criteria for granting an order are met. The application to the sheriff must identify the applicant and, as far as possible, the child. There must be a statement of the grounds on which the application is made and this must be accompanied by supporting evidence, written or verbal. This information is necessary to enable the sheriff to determine the application. The sheriff will give such weight as he or she thinks appropriate to any relevant hearsay, opinions, social work and other relevant records, medical reports, including any statements made to the police.

### **Procedure for making an application**

**386.** An application should include a written account of the information available a detailed outline of the concerns - including specific reasons why a child protection order is being sought. The application should be presented by the local authority solicitor accompanied by the social worker/team manager. .

**387.** When an order is to be served and there is insufficient time to employ any of the methods specified in paragraph (2) of Rule 3.15 of the **Act of Sederunt (Child Care and Maintenance Rules) 1997** the person seeking the child protection order should consider seeking a direction from the sheriff regarding effecting service orally, or in another manner <http://www.legislation.gov.uk/cy/uksi/1997/291/made>

### **The application to the sheriff**

**388.** In presenting an application to the sheriff, the solicitor, social workers and team manager need to ensure that the application satisfies the main issues of concern to the sheriff, namely that –

- the legal test is satisfied
- attempts to proceed without an order have failed or are not appropriate
- the making of an order would be better for the child than not to make an order.
- you should also include information about why the order is required urgently and why it is necessary.

**389.** The team manager must decide whether the application is to be made under Section 38 or 39. An application would only be made under Section 38 where there is are reasonable grounds to suspect a child is at risk of significant harm, the worker has tried to make enquiries and they have been unreasonably prevented from doing so. Only a local authority can make an application under Section 38.

**390.** It is by far more common to make an application under Section 39. If you are in any doubt then you should make the application under Section 39, quoting the appropriate legal tests.

**391.** The application should address the question of why the order is necessary to protect the child. Even where it can be shown that legal test in either Section 38 or Section 39 are satisfied, the sheriff still has a discretion whether or not to grant the order. Accordingly, the solicitor and social worker will need to show that other ways of protecting the child have been considered but are not appropriate, e.g. voluntary arrangements with the family; application for another order; placement of the child with friends or relatives.

**392.** In addition to giving information to the sheriff verbally, as much of the supporting evidence as is possible should be written down as part of the application. Any written reports or statements received by the social worker should also be included.

**393.** Under Section 39 the sheriff must be satisfied there is evidence to show that there are **reasonable grounds to believe** a child has been, or will be harmed. Therefore, the social worker will need to demonstrate what observations he/she has made or what information has been received which makes them believe that harm exists or is likely.

**394.** Evidence will be required by the sheriff to demonstrate that the harm is **significant**. The act does not define significant harm, but it will need to be demonstrated that the harm is not of a "minor, transient or superficial nature". Therefore it is important that the application contains information which indicates –

- the **nature** of the harm
- the **source** of the harm
- the **extent** of the harm.

**395.** Where possible evidence about harm should be supported by evidence in the form of statements or reports and/or research. In a case dealt with by Sheriff Kearney (SCOLAG) staff led evidence on sexual abuse based on research which stated siblings were also at high risk of abuse.

#### **Action following a sheriff's decision**

**396.** The team manager must ensure that attempts are made to implement the order without delay. If no attempt is made to implement the order within **24 hours** it will cease to have effect. If you have tried to implement the order but have been unsuccessful, then the order does not come to an end. It will however, come to an end if you are unable to implement it **within 6 days** of it being granted.

**397.** If a CPO is granted which orders the removal of a child from a person or place, then that order is not implemented until the child is actually removed. If the CPO is granted authorising a child to be KEPT in a safe place then that order is implemented the moment it is granted as there is nothing that requires to be done to give effect to the order. Hence it is effective right away.

**398.** It is the responsibility of the applicant to serve notice on various parties of the order. The order should be served on the following

- the child
- the parent (or relevant person) whose whereabouts are known
- the Principal Reporter.

**399.** Immediately following the granting of a child protection order the team manager must ensure that all the material presented to the sheriff is made available to the Authority Reporter.

**400.** On serving the order advice must be given about the provision for seeking variations or discharge of the order, and this should be confirmed within an explanatory note which should be given to parents (or the relevant person) informing them of their rights and responsibilities under the order.

**401.** Following the granting of a child protection order, if there is a possibility that the parent will want to legally challenge the order in court, the social work manager must notify legal services immediately so that they can become involved in any subsequent application for a recall or variation of the order.

**402.** If there is no application for variation or recall before expiry of the order, there will be an initial hearing **within 2 working** days of the granting of the order and a full hearing on the 8th working day. The team manager must ensure that the appropriate social work department staff are in attendance.

**403.** The child protection order and any directions attached to it, **terminates at the eighth working day hearing.**

**404.** An application for variation or recall of the order can be made either prior to or following the second working day hearing. If it is made prior to the second working day hearing then the hearing can still sit in order to provide advice to the court. The hearing on the recall application has to be heard at court **within 3 working days** of it being made.

**405.** In the event of an application for recall or variation being made, the team manager should consult immediately with legal services to ensure that appropriate social work staff and all relevant information are available to the allocated solicitor. Legal services will provide representation for the court hearing but will require a representative from social work to attend court.

**406.** Following an application for a child protection order being granted, if the Reporter, considers that the child protection order conditions are no longer satisfied, he/she can decide that the order is no longer appropriate. In these circumstances the team manager should consider convening a case discussion to decide what action if any, may be required. This power is, however, rarely used and can only be used prior the second working day hearing.

## **Exclusion Orders and Interim Exclusion Orders**

### **What is an exclusion order and what can it do?**

**407.** An exclusion order is a statutory measure available to protect children from significant harm by excluding an alleged abuser from the family home or household. An exclusion order has the effect of suspending the named person's rights of occupancy (if any) to the family home. It also prevents the person - whether an occupier or not - from entering the home, except with the permission of the local authority which applied for the order. A person named in an exclusion order may be the child's parent or a member of the child's family or anyone from whom it is considered necessary to protect a child from significant harm or the threat of harm, for example, a visitor to the family home.

**408.** Section 77 of the 95 act allows the sheriff when making an exclusion order to do any of the following -

- grant a warrant for the summary ejection of the named person from the home
- grant an interdict prohibiting the named person from entering the home without the express permission of the local authority
- grant an interdict prohibiting the removal by the named person of any relevant item specified in the interdict from the home, except either: (a) with the written consent of the local authority, or of an appropriate person; or (b) by virtue of a subsequent order of the sheriff

- grant an interdict prohibiting the named person from entering or remaining in a specified area in the vicinity of the home
- grant an interdict prohibiting the taking by the named person of any step of a kind specified in the interdict in relation to the child
- making an order regulating the contact between the child and the named person.

**409.** An exclusion order lasts for **6 months** unless it contains a direction by the sheriff that it shall cease to have effect on an earlier date. The local authority, the named person, the parent(s) or the person taking care of the child in the family home, and the spouse or partner may apply to the sheriff to discharge the order. Application can also be made to vary or recall any warrant, interdict, order or direction made. The duration of an exclusion order cannot be extended but a further order may be applied for. The views of the child must be sought in relation to the variation or recall of an exclusion order.

### **Conditions for making an order**

**410.** In terms of Section 76 (2) of the 95 Act, three conditions must be satisfied before the sheriff may grant the order. These are that -

- the child has suffered, is suffering, or is likely to suffer significant harm as a result of any conduct, or any threatened or reasonably apprehended conduct of the named person
- the order is necessary to protect the child - irrespective of whether the child is for the time being residing in the family home - and would better safeguard the child's welfare than removal of the child from the home
- there will be a person in the family home able to take responsibility for providing appropriate care for the child who is the subject of the order and any other family member who needs care.

**411.** Even when a sheriff decides that an exclusion order is necessary he/she will not make the order if it appears unjustified or unreasonable having regard to all the circumstances of the case. The circumstances that he/she will consider are

- the conduct of the child and family
- the needs and financial situation of the family members
- the extent to which the home is used for a family member's trade or profession and likely consequences.

**412.** The sheriff when considering whether to make, vary or discharge an exclusion order, must give the child concerned, taking account of his/her age and maturity, an opportunity to express his/her views, if he/she wants to, and the sheriff must have regard to any views expressed. The means of taking the view of the child are for the sheriff to determine in accordance with the rule of court.

### **Steps to be taken in preparing an application**

**413.** When consideration is being given to the necessity of making an application for an exclusion order this should be discussed with the team manager. Legal advice has to be sought at this stage.

**414.** Before making a decision about the need for an exclusion order the team manager leader shall convene and chair a case discussion to consider the matter. The case

discussion should involve representatives of appropriate agencies, in particular: health, education and housing staff, as well as the authority's legal services.

**415.** The case discussion should consider whether the criteria for an exclusion order are satisfied and should pay particular attention as to whether co-operation may be obtained in any other way and whether in all the circumstances an exclusion order is the most appropriate measure to be sought.

**416.** The case discussion should consider any difficulties likely to be encountered in implementing the order, if granted. In particular, it should consider whether assistance may be required from the police/sheriff officers to enforce the order.

**417.** It is unlikely that an exclusion order will be used to provide emergency protection for a child. In these circumstances an interim exclusion order should be sought. This has the same effect as an exclusion order but can be granted immediately by the sheriff before the hearing takes place. If the hearing is not held within 3 working days then the interim exclusion order will fall.

**418.** Exclusion orders may also be used when a child protection order has been granted but subsequent discussions have found that it would be in the best interests of the child to be returned home and the suspected adult perpetrator, who still poses a risk to the child, will not voluntarily leave the home.

### **Information required for an application**

**419.** The main factors in the decision to seek an order will be evidence of

- the degree of significant harm
- the likelihood of this harm recurring
- the extent to which attempts to proceed with voluntary exclusions have failed.

**420.** Where a decision has been made to seek an order, the case discussion should consider the information required from each appropriate agency to support the application. This may include, for example, school or health visitor's reports.

**421.** The minute should record the views of the child and how these have been ascertained. It should also record decisions regarding any ancillary orders that may require to be sought in terms of Section 77 and 78. These include any interdicts thought necessary and whether it is possible and appropriate to have a power of arrest attached to the orders.

### **Procedure for making an application**

**422.** Following a decision to apply for an exclusion order, the team manager should contact legal services and request that an application be made. The minute of the case discussion and any other relevant information, including reports from other agencies such as school, health and housing, must be made available to the appointed solicitor, with a minimum of delay.

**423.** The team manager should consult with the appointed solicitor about whether (and if so which) social work personnel should accompany the solicitor making the application. The application (including service) will be made by the appointed solicitor.

## Action following the sheriff's decision

**424.** Following the granting of an exclusion order notification of the order will be intimated to the appropriate parties by the appointed solicitor.

**425.** The team manager should ensure that an appropriate plan to monitor the operation of the exclusion order is implemented and reviewed as appropriate.

**426.** If at any point available information suggests that conditions for a child protection order are satisfied then that order should be sought without delay. (See procedures for child protection orders.)

**427.** Following the application for an exclusion order to be granted, consideration should be given to notifying relevant authorities if this has not already been done. The task should be carried out by the social worker following consultation with their line manager. While notification for the application for an exclusion order is not a referral to the Children's Reporter, notification of the granting of such an order or an interim order is treated as a referral.

## Emergency child protection measures

**428.** The local authority, or any other person may apply in an emergency to a justice of the peace for authorisation to remove a child to a place of safety or, to prevent a child from being moved from the place where he or she is being accommodated (Section 55 of the 2011 Act).

**429.** In addition, a police officer, acting in accordance with Section 56, may remove a child to a place of safety without authorisation.

**430.** Section 55(4) requires that the child must be in, or be on the way to the place of safety within twelve hours of the authorisation by the Justice of the Peace otherwise the authorisation ceases to have effect. Sections 55(4), (5), and (6) provides authorisation that lasts for a **maximum of 24 hours** from being granted by the Justice of the Peace, or from removal to a place of safety by the police. If the child requires to be protected further then a child protection order should be sought.

**431.** Social work staff should only consider approaching a Justice of the Peace for authorisation after taking all reasonable steps to get a CPO application before a Sheriff. Police officers will only invoke Section 56 when it is not practical to apply to a sheriff and the need for immediate action is indicated. The police powers are briefly discussed below.

## The authorisation and what it may do

**432.** An authorisation granted by a Justice of the Peace may

- require the child to be produced to the applicant
- prevent any person from removing the child from the place where he or she is then being accommodated
- authorise the applicant to remove the child to a place of safety and keep him or her there until the authorisation expires.
- give discretion as to contact with relevant person (Rule 16 **The Emergency Child Protection Measures (Scotland) Regulations** )

**433.** The Reporter may direct the release of the child (**Children's Hearing (Scotland) Act 2011** Section 55 (6)).

**434.** When authorisation is granted, social work staff must take all practicable steps to notify relevant persons, any other person with whom the child was residing at the time and the Reporter specifying

- the steps taken to implement the authorisation
- the place of safety to which the child is being taken or where he or she is being accommodated (unless under Regulation 10, **The Emergency Child Protection Measures (Scotland) Regulations 1996**, the social worker notifying the persons specified above considers it necessary to withhold this information in order to safeguard the welfare of the child)
- the reasons for granting the authorisation, any other steps being taken to safeguard the welfare of the child (unless under Regulations 1996), if the social worker notifying the persons specified above considers it necessary to withhold this information in order to safeguard the welfare of the child)

**435.** An application for an emergency authorisation is a serious step involving direct and urgent intervention by the local authority to remove a child to a place of safety, or to prevent him/her from being removed from a specified place. Before deciding on this route to protect a child, the local authority must be satisfied that

- alternative options for action to protect the child have been taken into account
- the conditions for making a child protection order are satisfied
- all practical steps to secure an audience before a sheriff have been taken

**436.** When an authorisation is granted, or a police officer acts within Section 56, social work staff should move urgently to make an application for a child protection order to a sheriff - unless new information has come to light, or a change in circumstances indicates otherwise. An emergency authorisation ceases to have effect if not implemented within 12 hours of being granted.

**437.** If an emergency authorisation is not implemented within 12 hours, the team manager must arrange for the Justice of the Peace to be notified immediately and for notice to be given to the same persons as specified above i.e. any relevant person and the Reporter.

### **Police powers to take a child to a place of safety**

**438.** Under Section 56 the police are given powers to protect children in emergency situations. Where a police officer has reasonable cause to believe

- that the criteria for making a child protection order are satisfied
- that it is not practicable to apply for such an order from a sheriff or for the sheriff to consider such an application
- that it is necessary to remove the child to a place of safety in order to protect the child from significant harm or further such harm.

Then that officer can remove the child to a place of safety and keep the child there.

# Recording Information & Quality Assurance

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## Recording in the Child's File

**439.** Decision making depends on having sufficient, succinct and accessible records. A distinction should always be made between facts, hearsay and opinions. Records should include a note of

- Dates of professionals contact with children and families
- The child's views and emotional wellbeing
- Actions and decisions and the rationale behind them
- Outcomes of interventions
- The child's plan/protection plan
- Chronology of significant events

**440.** CFIS case notes should be completed by the social worker. An account of the attempt to implement the child protection plan should be included in case notes with updates when reviewed at core group meetings, review child protection conferences or following significant events. The family's view of the plan should be sought and recorded.

**441.** Case notes should be completed as soon as possible after the contact/event. Details of practical tasks done on behalf of the family should be described e.g. contact, escorts, parenting supports etc.

**442.** Recording of direct work with the child should include methods, nature of intervention and the child's response. Ongoing analysis of the case should be reflected in the record.

**443.** Relevant detail on the nature and content of contact with other agencies should be recorded eg. observations of the child, family and the opinion on progress, concerns about risk or lack of access, strengths of the situation. The child's views should also be reflected. Significant events giving rise to concern should be highlighted for easy access. Any additional concerns or allegations and subsequent action recorded.

## Quality Assurance and Monitoring

**444.** Child protection case notes require to be counter signed by the team manager on a **four weekly basis** and by the service manager on a **3 monthly basis**.

**445.** Team managers should also ensure that case notes of the staff they supervise are of an acceptably high standard.

**446.** The service manager should have mechanisms in place for ensuring that case notes overall within the team are of an acceptably high standard.

**447.** Counter signatures should reflect an analysis of how the child protection plan is progressing. Analysis of information on the impact of child should be reflected on CFIS.

# Appendix A

## Core Definitions

### Who is a Child?

A child can be defined differently within different legal contexts. For example:

- Section 93(2)(a) and (b) of the Children (Scotland) Act 1995 defines a child in relation to the powers and duties of the local authority.
- Children & Young People (Scotland) Act 2014 defines a child as under 18 yrs
- Young people between the age of 16 and 18 who are still subject to a Supervision requirement by a Children's Hearing can be viewed as a child
- Young people over the age of 16 who are deemed as vulnerable by disability may also still require intervention to protect them.
- The United Nations Convention on the Rights of the Child applies to anyone under the age of 18. However, Article 1 states that this is the case unless majority is attained earlier under the law applicable to the child.

While these differing legal definitions of who is a child can present as confusing the priority is to ensure that a vulnerable young person who is, or may be, at risk of significant harm is offered appropriate support and protection. Understandings of the individual young person's circumstances and age will, by default, help determine what legal measures are applied.

For example, the Adult Support and Protection (Scotland) Act 2007 can be applied to over-16s where the criteria are met. Young people aged between 16 and 18 are potentially vulnerable to falling between the gaps, and local services must ensure that processes enable staff to offer ongoing support and protection as needed, via continuous single planning for the young person. In the absence of agreement across services it is appropriate that the Adult and Children's services managers examine the individual case circumstances that arise and exercise shared discretion as to the best course of action under which set of Procedures. Where no agreement can be satisfactorily reached as to appropriate course of action the matter should be immediately referred to and decided upon by the Service Manager.

Alongside considerations of approach where a young person between the age of 16 and 18 requires protection, services will also need to consider which legislation, if any, can be applied. This will depend on individual circumstances as well as on the particular legislation or policy framework. Consideration will also need to be given to the issue of consent and whether an intervention can be undertaken where a young person has withheld their consent.

### Parents/Carers & Relevant Persons

**A Parent** - A parent is defined as any person who is the genetic or adoptive mother or father of the child. A parent has in relation to his/her child the responsibility to safeguard and promote the child's health, development and welfare and to provide, in a manner appropriate to the stage of development of the child, direction and guidance.

If the child is not living with the parent, they further have responsibility to maintain personal relations and direct contact with the child on a regular basis and to act as the child's legal representative. This is in as far as is practicable relative to Section (1) of the Children (Scotland) Act 1995 and it being in the interests of the child.

**Parental Rights & Responsibilities** - A mother has full parental rights and responsibilities. A father has parental responsibilities and rights if he is or was married to the mother (at the time of the child's conception or subsequently) or if the birth of the child is registered after 4 May 2006 and he is registered as the father of the child on the child's birth certificate. A father may also acquire parental responsibilities or rights under the Children (Scotland) Act 1995 by entering into a formal agreement with the mother, or by making an application to the courts.

**Relevant Persons** - A relevant person within the Children's Hearing System is defined as any person who has parental responsibilities or rights in relation to a child, or any person who ordinarily has charge of, or control over, a child (for example, stable carers for the child). Relevant persons have extensive rights within the Children's Hearing system, including the right to attend Children's Hearings, receive all relevant documentation, and challenge decisions taken within those proceedings.

**Kinship Carer** - A 'kinship carer' can be a person who is related to the child or a person who is known to the child and with whom the child has a pre-existing relationship (related means related to the child either by blood, marriage or civil partnership. Regulation 10 of the Looked After Children (Scotland) Regulations 2009 provides that a local authority may make a decision to approve a kinship carer as a suitable carer for a child who is looked after by that authority under the terms of section 17(6) of the Children (Scotland) Act 1995.

**Informal Kinship Care** - Informal kinship care refers to care arrangements made by parents or those with parental responsibilities with close relatives or, in the case of orphaned or abandoned children, by those relatives providing care. A child cared for by informal kinship carers is not 'looked after'. The carer in such circumstances is **not** a foster carer, nor is assessment of such a carer by the local authority a legal requirement.

**Same Sex Relationships** - Importantly, the Family Law (Scotland) Act 2006 **and** The Human Fertilisation and Embryology Act 2008 also confer rights and responsibilities on same sex partners.

**The Named Person** - Where a child only requires support from a single agency or service, such as Health or Education, a Named Person will be identified to lead on planning for the child's wellbeing. The named person has an important part to play in supporting early intervention via the universal services of Health and Education.

**Lead Professional** - These Procedures and all assessments of need and risk in Scotland are rooted in the Girfec approach. Under Girfec, when two or more agencies work together to support a child or young person and their family, a "Lead Professional" should be nominated to co-ordinate that support. Where evidence suggests that a co-ordinated plan involving two or more agencies will be necessary, a Child's Plan" should also be drawn up. In child protection cases, the role of the Lead Professional will be taken on by a local authority Social Worker and the Child's Plan will be known as the Child Protection Plan.

**The Child's Plan** - The Child's Plan should comprise a **single plan of action** and be managed and reviewed through a **single meeting structure**, even if the child is involved in several processes; for example, being looked after or having a co-ordinated support plan.

The Lead Professional should ensure that the expertise of those involved is properly integrated along with information gathered through specialist assessments in order to give the fullest possible picture of the child's needs and any risks emerging and how best they can be met and addressed. The Lead Professional is also responsible for co-ordinating any actions taken to improve the outcomes for the child.

## Timescales for Acting on Child Protection Concerns

National timescales have been introduced for CPCC's as well as for the production of Minutes and Child Protection Plans. Every effort should be made to meet the timescales within the National Guidance but it is recognized that this may not always be possible. The reasons for not complying with the timescales should be recorded, along with a proposed future date for completion.

<b>Notification of Concern to Initial CPCC</b>	The Initial CPCC should be held as soon as practically possible and no later than <b>21 calendar days</b> from the notification of concern.
<b>Invitations</b>	Participants should be given a minimum of <b>5 calendar days'</b> notice of the decision to convene a CPCC whenever possible
<b>Review CPCC</b>	The first review CPCC should be held within <b>3 months</b> of the initial CPCC. Thereafter, reviews should take place <b>3 monthly</b> , but can be extended to <b>6 monthly</b> with the agreement of the Chair
<b>Pre-Birth CPCC</b>	The CPCC should take place no later than <b>28 weeks pregnancy</b> or, in the case of late notification, as soon as possible after the notification of concern and in any case within <b>21 calendar days</b>
<b>Core Group</b>	The initial core group meeting should be held within <b>15 calendar days</b>
<b>Minutes</b>	Participants should receive the minutes within <b>15 calendar days</b> of the initial CPCC
<b>CP Plan</b>	Participants should receive a copy of the child protection plan within <b>5 calendar days</b> of the CPCC
<b>Changes to CP Plan</b>	Where the core group identifies the need to make significant changes to the child protection plan they should notify the CPCC chair within <b>3 calendar days</b>

## Appendix C

# Offences Within the Ambit of Schedule 1 of the Criminal Procedure (Scotland) Act 1995

### Any Offence under Part I of the Criminal Law (Consolidation) (Scotland) Act 1995

- Procuring (unlawful sexual intercourse or for the purpose of prostitution (section 7(1))
- Incest (section 1)
- Intercourse with step-child (section 2)
- Detention of a girl against her will with intent to have sexual intercourse (section 8)
- Permitting a girl under the age of 16 years to use premises for sexual intercourse (section 9)
- A person with parental responsibilities and rights in relation to a girl under the age of 16 years has caused or encouraged her seduction or prostitution (section 10)
- A male has profited from prostitution, or has solicited himself
- A person with parental responsibilities and rights, or a person with care of a child, has allowed the child (aged between 4 years and 15 years) to reside in or frequent a brothel (section 12)
- A Person has profited from another's male prostitution (section 13)

**Action to implement specific procedures in respect of offences under this section must only be taken where the victim is aged under 17 years**

**Any offence under section 18, 19, 20, 28, 29 or 30 of the Sexual Offences (Scotland) Act 2009** - penile or other sexual penetration of the mouth, anus or vagina of a child under the age of 16, or sexually touching a child under 16 (sections 20 and 30)

**Abuse of sexual trust** – sections 42 and 43(6) **Sexual Offences (Scotland) Act 2009** - ie a person who is 18 or over and who (a) has parental responsibilities or parental rights in respect of a person under 17; or (b) who fulfils any responsibilities or rights under arrangement with a person who has such responsibilities or rights; (c) had any such responsibilities or rights but no longer has such responsibilities or rights, or (d) treats the child as a child of his or her family, AND is a member of the same household. If he or she intentionally engages in a sexual activity this is the offence of sexual abuse of trust.

**Any offence under sections 12, 15, 22 or 33 of the Children and Young Persons (Scotland) Act 1937 (as amended by the Sexual Offences (Scotland) Act 1976)**

- Cruelty (including neglect or assault) to a child or young person under the age of 16 years by someone with parental responsibilities and rights, or who has care of the child (section 12)
- Causing or allowing persons under 16 years of age to be used for begging (section 15)
- Exposure by a person with parental responsibilities or rights, or with care of the child, to children under 7 years of age to risk of burning or scalding (section 22)
- Prohibition of persons under 16 years of age taking part in performances endangering life or limb (section 33)

Any offence under the **Prohibition of Female Genital Mutilation (Scotland) Act 2005** where the person mutilated or, as the case may be, proposed to be mutilated, is a child under the age of 17 years

Any offence under section 52 or 52A of the **Civic Government (Scotland) Act 1982** in relation to an indecent photograph (or pseudo photograph) of a child under the age of 17 years

Any offence under section 1, 9, 10, 11 or 12 of the **Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005** in respect of a child under the age of 17 years

- Meets or arranges to meet a child under 16 years having communicated with the child previously with the intention of engaging in sexual activity in the knowledge that the child is under 16 (section 1)
- Pays or arranges for payment of sexual services from a child under 17 years (section 9)
- Incites a child under 18 years to provide sexual services or to be involved in pornography (section 10)
- Controls the provision of sexual services or involvement in pornography of a child under 17 years (section 11);
- Arranges or facilitates the provision of sexual services or involvement in pornography of a child under 17 years (section 12)

**Any other offence involving bodily injury to a child under the age of 17 years**

**Any offence involving the use of lewd, indecent or libidinous practices or behaviour towards a child under the age of 17 years.**

Any offence under section 5 (coercing a person into being present during a sexual activity), 6 (coercing a person into looking at a sexual image), 7 (communicating indecently etc.), 8 (sexual exposure) or 9 (voyeurism) of the **Sexual Offences (Scotland) Act 2009** (asp 9) towards a child under the age of 17 years.

Any offence under any of sections 21 to 26 or 31 to 37 of that Act (certain sexual offences relating to children).

- Intentionally causing a child who has not attained the age of 13 years to participate in a sexual activity (section 21)
- intentionally engages in a sexual activity in the presence of a child who has not attained the age of 13 years, or intentionally causing B to be present while a third person engages in such an activity (section 22)
- intentionally causes a child who has not attained the age of 13 years to look at a sexual image (section 23)
- intentionally causes a child under 13 years to see or hear a sexual communication (section 24)
- intentionally exposes genitals in a sexual manner to a child who has not attained the age of 13 years, with the intention that B will see them (section 25); sexual voyeurism of a child under 13 years (section 26);
- sections 31 to 36 define equivalent offences where the child is under 16 years of age
- if a child aged over 13 years but under 16 years engages in certain sexual activity with a child in the same age group, both children have committed an offence and both are the victim in terms of section 37