

# FORTH VALLEY INTER AGENCY CHILD PROTECTION GUIDANCE 2016

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## PREFACE

This Forth Valley Child Protection Guidance is based on the National Guidance for Child Protection in Scotland, 2014, and aims to support organisations and practitioners in working together to give children the protection they need, quickly and effectively at the earliest possible stage.

As Chairs of the Child Protection Committees we acknowledge the shared responsibility that agencies and services have for protecting children and safeguarding their welfare and the importance of partnership working in achieving this.

This Guidance should be read in conjunction with the guidance of individual agencies and services referred to within the document.

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# PART 1: CONTEXT FOR CHILD PROTECTION

## KEY DEFINITIONS AND CONCEPTS

### Who is a Child?

A **child** can be defined differently in different legal contexts:

In terms of Part 1 of the [Children \(Scotland\) Act 1995](#) (which deals with matters including parental rights and responsibilities), a child is generally defined as someone under the age of 18. In terms of Chapter 1 of Part 2 (which deals with support for children and families and includes local authorities' duties in respect of looked after children and children "in need"), a child is also defined as someone under the age of 18. In terms of Chapters 2 and 3 of Part 2 (which deal with matters including children's hearings and child protection orders), a child means someone who has not attained the age of sixteen years; a child over the age of sixteen years who has not attained the age of eighteen years and in respect of whom a supervision requirement is in force; or a child whose case has been referred to a children's hearing by virtue of section 33 of this Act (Effect of orders etc. made in others parts of the United Kingdom). However, Chapters 2 and 3 of Part 2 have been largely repealed by the [Children's Hearings \(Scotland\) Act 2011](#), except in relation to certain ongoing cases which are still proceeding under the 1995 Act.

The [Children's Hearings \(Scotland\) Act 2011](#) now contains the current provisions relating to the operation of the Children's Hearings system and child protection orders. Section 199 states that, for the purposes of this Act, a child means a person under 16 years of age. However, this section also provides some exceptions to that general rule. Subsection (2) provides that for the purposes of referrals under section 67(2)(o) (failure to attend school), references in the Act to a child include references to a person who is school age. "School age" has the meaning given in section 31 of the [Education \(Scotland\) Act 1980](#). Additionally, children who turn 16 during the period between when they are referred to the Reporter and a decision being taken in respect of the referral, are also regarded as "children" under the Act. Children who are subject to compulsory measures of supervision under the Act on or after their 16th birthday are also treated as children until they reach the age of 18, or the order is terminated (whichever event occurs first). Where a sheriff remits a case to the Principal Reporter under section 49(7)(b) of the [Criminal Procedure \(Scotland\) Act 1995](#), then the person is treated as a child until the referral is discharged, any compulsory supervision order made is terminated, or the child turns 18.

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.

The meaning of a child is extended to cover any person under the age of 18 in cases concerning: Human Trafficking; sexual abuse while in a position of trust ([Sexual Offences \(Scotland\) Act 2009](#)) and the sexual exploitation of children under the age of 18 through prostitution or pornography ([Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005](#)). When the [Children and Young People \(Scotland\) Act 2014](#) comes into force, a "child" will be defined for the purposes of all Parts of that Act as someone who has not attained the age of 18.

The individual young person's circumstances and age will dictate what legal measures can be 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 processes are in place to enable staff to offer ongoing support and protection as needed via continuous single planning for the young person. The [GIRFEC](#) framework and provision of the Named Person service for 16-18 year olds are key to ensuring that wellbeing needs can be identified and addressed. In responding to Child Protection concerns and allegations that relate to young people aged 16-18 years at the point of referral, the relevant Social Work Service Managers, in consultation with colleagues in Forth Valley N.H.S. and Police Scotland, will decide whether the investigation will be undertaken under Child Protection Guidelines or the [Adult Support and Protection Procedures](#). Whichever procedures or guidelines are followed, the decision as to how to proceed will be recorded in both systems. On commencement of the [Children and Young People \(Scotland\) Act 2014](#), similar to child protection interventions, all adult protection interventions for 16 and 17 year olds will be managed through the statutory single Child's Plan. Special consideration will need to be given to the issue of consent and whether an intervention can be undertaken where a young person has withheld their consent. The priority is to ensure that a vulnerable young person who is, or may be, at risk of significant harm is offered support and protection.

[Forth Valley Transition Planning Guidance for Staff working with Children, Young People and Families in areas of Adult and Child Protection Practice 16 - 18 year olds](#) should be read in conjunction with local procedures.

## Who Are Parents and Carers?

A **'parent'** is defined as someone who is the genetic or adoptive mother or father of the child. A child may also have a parent by virtue of provisions in the [Human Fertilisation and Embryology Act 2008](#). A mother has full parental rights and responsibilities. A father has parental rights and responsibilities if he is or was married to the mother at the time of the child's conception or subsequently, or if the child's birth has been registered after 4 May 2006 and he has been registered as the father of the child on the child's birth certificate. A father or, where relevant, a second female parent by virtue of the [Human Fertilisation and Embryology Act 2008](#) 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.

Parental rights are necessary to allow a parent to fulfil their responsibilities, which include looking after their child's health, development and welfare, providing guidance to their child, maintaining regular contact with their child if they do not live with them and acting as their child's legal representative. In order to fulfil these responsibilities, parental rights include the right to have their child live with them and to decide how their child is brought up.

A **'carer'** is someone other than a parent who has rights/responsibilities for looking after a child or young person. '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. A carer may be a 'relevant person' within the Children's Hearing system.

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](#) ("the 2009 Regulations") 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. Before making such a decision the authority must, so far as reasonably practicable, obtain and record in writing the information specified in Schedule 3 to the 2009 Regulations and, taking into account that information, carry out an assessment of that person's suitability to care for the child. Other duties placed on local authorities by the 2009 Regulations are designed to ensure that they do not make or sustain placements that are not safe or in the child's best interests and that placements are subject to regular review.



Preventative and protective work is necessary to support carers and, in particular, kinship carers who may face added challenges. These include the potential risks posed by parents; where the kinship carer is a grandparent, this may mean making decisions as to how best to protect their grandchild or grandchildren from their own child. Kinship carers may have ambivalent feelings about the circumstances that have resulted in them having to care for a child or young person. Services should be sensitive to these issues and offer support wherever possible.

Kinship care placements of looked after children made under the 2009 Regulations, as described above, are often referred to as formal 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.

**Private fostering** refers to children placed by private arrangement with persons who are not close relatives. 'Close relative' in this context means mother, father, brother, sister, uncle, aunt, grandparent, of full blood or half blood or by marriage. Where the child's parents have never married, the term will include the birth father and any person who would have been defined as a relative had the parents been married.

## What is Child Abuse and Child Neglect?

**Abuse** and **neglect** are forms of maltreatment of a child. Somebody may abuse or neglect a child by inflicting, 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 will need to consider whether abuse has occurred or is likely to occur.

The following definitions show some of the ways in which abuse may be experienced by a child but are not exhaustive, as the individual circumstances of abuse will vary from child to child.

**Physical abuse** is the causing of physical harm to a child or young person. Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning or suffocating. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes, ill health to a child they are looking after.

**Emotional abuse** is persistent emotional neglect or ill treatment that has severe and persistent adverse effects on a child's emotional development. It may involve conveying to a child that they are worthless or unloved, inadequate or valued only insofar as they meet the needs of another person. It may involve the imposition of age - or developmentally - inappropriate expectations on a child. It may involve causing children to feel frightened or in danger, or exploiting or corrupting children. Some level of emotional abuse is present in all types of ill treatment of a child; it can also occur independently of other forms of abuse.

**Sexual abuse** is any act that involves the child in any activity for the sexual gratification of another person, whether or not it is claimed that the child either consented or assented. Sexual abuse involves forcing or enticing a child to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non-penetrative acts. They may include non-contact activities, such as involving children in looking at, or in the production of indecent images or in watching sexual activities, using sexual language towards a child or encouraging children to behave in sexually inappropriate ways (See also section on [child sexual exploitation](#)).

**Neglect** is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a parent or carer failing to provide adequate food, shelter and clothing, to protect a child from physical harm or danger, or to ensure access to appropriate medical care or treatment. It may also include neglect of, or failure to respond to, a child's basic emotional needs. Neglect may also result in the child being diagnosed as suffering from 'nonorganic failure to thrive', where they have significantly failed to reach normal weight and growth or development milestones and where physical and genetic reasons have been medically eliminated. In its extreme form children can be at serious risk from the effects of malnutrition, lack of nurturing and stimulation. This can lead to serious long-term effects such as greater susceptibility to serious childhood illnesses and reduction in potential stature. With young children in particular, the consequences may be life threatening within a relatively short period of time.

## What is Child Protection?

'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. Equally, in 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 whether a criminal investigation is needed and to inform an assessment that a Child Protection Plan is not required.

There are also circumstances where, although abuse has taken place, formal child protection procedures are not required. For example, the child's family may take protective action by removing the child from the source of risk. Children who are abused by strangers would not necessarily require a Child Protection Plan unless the abuse occurred in circumstances resulting from a failure in familial responsibility. For example, if a young child is abused by a stranger, a Child Protection Plan may be required only if the family were in some way responsible for the abuse occurring in the first instance or were unable to adequately protect the child in the future without the support of a Child Protection Plan.

## What is Harm and Significant Harm in a Child Protection Context?

Child protection is closely linked to the risk of **'significant harm'**. 'Significant harm' is a complex matter and subject to professional judgement based on a multi-agency assessment of the circumstances of the child and their family. Where there are concerns about harm, abuse or neglect, these must be shared with the relevant agencies so that they can decide together whether the harm is, or is likely to be, significant. The [Children and Young People \(Scotland\) Act 2014](#) introduces a legal duty for a wide range of public bodies and those commissioned or contracted to them to share such concerns with a child's Named Person. Through early and effective intervention and the sharing of wellbeing concerns it is hoped that crisis can be avoided in many cases.

Significant harm can result from a specific incident, a series of incidents or an accumulation of concerns over a period of time. It is essential when considering the presence or likelihood of significant harm that the impact (or potential impact) on the child takes priority and not simply the suspected or reported abusive behaviour. It should be remembered that the threshold for referral to the Children's Reporter is not the significant harm threshold, but

when it is considered that a child is in the need of protection, guidance, treatment or control and Compulsory Measures of Supervision might be necessary.

In order to understand the concept of significant harm, it is helpful to look first at the relevant definitions.

'Harm' means the ill treatment or the impairment of the health or development of the child, including, for example, 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.

There are no absolute criteria for judging what constitutes **significant harm**. In assessing the severity of ill treatment or future ill treatment, it may be important to take account of: the degree and extent of physical harm; the duration and frequency of abuse and neglect; the extent of premeditation; and the presence or degree of threat, coercion, sadism and bizarre or unusual elements. Sometimes, a single traumatic event may constitute significant harm, for example, a violent assault, suffocation or poisoning. More often, significant harm results from an accumulation of significant events, both acute and long-standing, that interrupt, change or damage the child's physical and psychological development.

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; and the wider and environmental family context.

The reactions, perceptions, wishes and feelings of the child must also be considered, with account taken of their age and level of understanding. This will depend on effective communication, including with those children and young people who find communication difficult because of their age, impairment or particular psychological or social situation. It is important to observe what children do as well as what they say, and to bear in mind that children may experience a strong desire to be loyal to their parents/carers (who may also hold some power over the child). Steps should be taken to ensure that any accounts of adverse experiences given by children are accurate and complete, and that they are recorded fully.

### **What is Risk in a Child Protection Context?**

Understanding the concept of risk is critical to child protection. For further information, see the section on [Identifying and managing risk](#). This is supplemented by a [National Risk Assessment Toolkit](#) to support the assessment of children and young people.

Risk is the likelihood or probability of a particular outcome given the presence of factors in a child or young person's life. Risk is part and parcel of everyday life: a toddler learning to walk is likely to be at risk from some stumbles and scrapes but this does not mean the child should not be encouraged to walk. 'Risks' may be deemed acceptable; they may also be reduced by parents/carers or through the early intervention of universal services. At other times, a number of services may need to respond together as part of a coordinated intervention. Only where risks cause, or are likely to cause, significant harm to a child would a response under child protection be required. Where a child has already been exposed to actual harm, assessment will mean looking at the extent to which they are at risk of repeated harm and at the potential effects of continued exposure over time. Consideration should also be given to the risk posed by the potential perpetrator.

### **What is the Named Person, Lead Professional and the Child's Plan?**

Under the [GIRFEC](#) approach, the **Named Person** role will be in place for every child and will be undertaken by an individual in universal services, i.e. health or education. Their role will be to act as the point of contact for children/ young people and families, and for other practitioners or members of the public. They will have a responsibility to promote, support and safeguard children's wellbeing. The role will form part of their day-to-day work, and most children will get all the help and support they need from their families, universal services, and their community. At various times during childhood and adolescence, many children and

young people will need some extra help. The Named Person should be in a position to provide or access information, advice and support to children and young people from within their own service, and when necessary to request support from other services or agencies.

Where concerns about wellbeing require coordinated intervention from more than one service or agency, then a **Lead Professional** will be identified to take on that coordinating role. Where evidence suggests that a co-ordinated plan to provide a 'targeted intervention' involving two or more agencies will be necessary, a **Child's Plan** should also be drawn up. The Named Person will either take on the role of Lead Professional themselves, or will agree with the partners involved in supporting the child / young person, who else should most appropriately take on the role of Lead Professional to manage the multi-agency Child's Plan. The Lead Professional may be drawn from any of the services or agencies who are partners to the Child's Plan (i.e. those services or agencies who are providing a targeted intervention to address the child's wellbeing needs). The choice of Lead Professional will be dependent on the needs of the child and the interventions and outcomes identified within the Child's Plan.

The Child's Plan should include 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 evidence gathered through specialist assessments in order to give the fullest possible picture of the child's needs and how best they can be met. The Lead Professional is also responsible for co-ordinating any actions taken to improve the outcomes for the child.

Where a child is thought to be at risk of significant harm, the primary concern will be for their safety. The planning process must reflect this. The [Child Protection Case Conference](#) is the single meeting in respect of a child about whom there are concerns about significant harm.

The Lead Professional will be responsible for ensuring the production of an agreed multi-agency **Child's Plan**, based on an assessment of needs and with a particular focus on the risks to the child and the interventions needed to reduce these risks.

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.

### **What is the Child Protection Register?**

The Child Protection Register has no legal status but provides an administrative system for alerting practitioners that there is sufficient professional concern about a child to warrant an inter-agency Child Protection Plan. Local authority social work services are responsible for maintaining a register of all children in their area who are subject to a Child Protection Plan, though the decision to put a child on the register will be based on a multi-agency assessment. The Child Protection Register provides a central resource for practitioners concerned about a child's safety or care. If legal safeguards are required to protect the child or ensure compliance then a referral must be made to the Children's Reporter to allow consideration as to whether Compulsory Measures of Supervision are required.

The decision to place a child's name on the register is taken following a [Child Protection Case Conference](#) where there are reasonable grounds to believe or suspect that a child has suffered or will suffer significant harm from abuse or neglect, and that a Child Protection Plan is needed to protect and support the child.

If and when the practitioners who are working with the child and family decide that the risk of significant harm to the child has been sufficiently reduced and the child or young person is no longer in need of a 'Child Protection Plan', the child's name should be removed from the Child Protection Register. The decision to remove a child's name will be made by a review Child Protection Case Conference at which all the relevant agencies are represented, as well as the child and their family.

**Removal of a child's name from the register does not necessarily lead to a reduction or withdrawal of services or support to the child and family** by any or all of the agencies. The risk of significant harm to the child may have receded, but the child may continue to require a range of support; this will form part of the single planning process for the child. At the point of deregistration, consideration should be given to whether a different Lead Professional should be appointed and, if so, arrangements made for the transfer to be agreed. The Child Protection Plan will, following de-registration, be removed from a Child's Plan.

## **Making use of the Child Protection Register**

The Child Protection Register is maintained by social work services. There is 24-hour access to the register through social work services. All practitioners must notify the keepers of local registers of any changes to details relating to children named on the register. The Keeper of the Child Protection Register is responsible for attempting to trace a registered child whose whereabouts become unknown, including notifications and alerts to other areas and services.

## **Movement of Children Who Are on the Child Protection Register**

When families move between authority areas - whether temporarily or permanently - the original authority will notify the receiving authority immediately, then follow up the notification in writing. The receiving authority should immediately place the child's name on their local register. Where possible, the original authority should advise how long the child is expected to stay in the area. The authorities should make each other aware when the temporary



registration is no longer required and why this is the case, for example because the child has returned to their home address. The [Children and Young People \(Scotland\) Act 2014](#), contains provisions which, when enacted, will place a legal duty on Named Person service providers to notify receiving service providers about a child moving into their area. Together with this responsibility, they should share any information that they have, which may be necessary for the child's wellbeing needs to be met. Where a Child's Plan - which incorporates a 'Child Protection Plan' - is in place the responsible authority for the child is, with few exceptions, the health board or local authority where the child resides.

## PRINCIPLES AND STANDARDS FOR CHILD PROTECTION

### Core Principles:

#### GIRFEC

Child protection must be seen within the wider context of supporting families and meeting children's needs through [GIRFEC](#) which:

- puts children's needs first;
- ensures that children are listened to and understand decisions that affect them; and
- ensures that they get the appropriate co-ordinated support needed to promote, support and safeguard their wellbeing, health and development.

[GIRFEC](#) requires that all services for children and young people and adult services working with parents and carers of children and young people - including social work, health, education, police, housing and third sector services - adapt and streamline their systems and practices so that, where necessary, they can work together better to support children and young people. This includes strengthening arrangements for information-sharing. The approach encourages earlier intervention by practitioners to avoid crisis situations at a later date and ensures that children and young people get the help they need when they need it. With its emphasis on shared assessment based on common language, it facilitates information-sharing and stresses the importance of understanding risks and needs across all aspects of the child's wellbeing.

## UN Convention on the Rights of the Child

These principles, enshrined in legislation and practice in child protection, are derived from Articles of the

[UN Convention on the Rights of the Child](#), ratified by the UK Government and endorsed by the Scottish Government. They should underpin all code and practice in child protection. While not directly enforceable in domestic Scottish courts, it is Scottish Government policy to implement the Convention wherever possible.

The principles of the UN Convention include:

- each child has a right to be treated as an individual;
- every child who can form a view on matters affecting them has the right to express those views if they so wish, and those views should be given due weight in accordance with the child's age and maturity;
- parents should normally be responsible for the upbringing of their children and should share that responsibility;
- each child has the right to protection from all forms of abuse, neglect or exploitation;
- insofar as is consistent with safeguarding and promoting the child's welfare, public authorities should promote the upbringing of children by their families; and
- any intervention by a public authority in the life of a child must be properly justified and should be supported by services from all relevant agencies working in collaboration.

The [Children and Young People \(Scotland\) Act 2014](#) sets out duties on a range of public bodies to report on how they are taking forward children's rights as set out in the UN Convention. Moreover, ratified by the UK Government in 2009, the [UN Convention on the Rights of Persons with Disabilities](#) stipulates that in order for disabled children to be able to realise the rights mentioned above, they need to be provided with disability and age-appropriate assistance.

## The Children's Charter and the Framework for Standards

The [Children's Charter](#) was drawn up following consultation with children and young people as part of the Scottish Government's child protection reform programme. The Charter sets out a list of demands children should feel entitled to make:

- get to know us;
- speak with us;
- listen to us;
- take us seriously;
- involve us;
- respect our privacy;
- be responsible to us;
- think about our lives as a whole;
- think carefully about how you use information about us;
- put us in touch with the right people;
- use your power to help;
- make things happen when they should; and
- help us be safe

The Charter reflects children and young people's own views regarding what they need and the standard of care they expect when they have problems or are in difficulty and need to be protected. It shows that children and young people place more value on relationships and attitudes than processes and events. This should be reflected in the planning and implementation of all child-focused interventions

The [Framework for Standards](#) is the detailed means for translating the commitments made in the Children's Charter into practice. In working with children and their families, all practitioners should strive to adhere to the following best practice standards:

- Children get the help they need when they need it
- Professionals take timely and effective action to protect children
- Professionals ensure children are listened to and respected
- Agencies and professionals share information about children where this is necessary to protect them
- Agencies and professionals work together to assess needs and risks and develop effective plans
- Professionals are competent and confident
- Agencies work in partnership with members of the community to protect children
- Agencies, individually and collectively, demonstrate leadership and accountability for their work and its effectiveness

## Equality and Diversity

Child protection policy must pay due attention to equality and diversity issues. Access to, and delivery of, child protection services should be fair, consistent, reliable and focused on individual outcomes and enablement. Service users should be listened to, respected and responded to. There should be no discrimination on the grounds of race, disability, gender, age, sexual orientation, religion or belief, gender reassignment or on the basis of pregnancy and maternity.

The [Equality Act 2010](#) restates, streamlines and harmonises equality legislation. It replaces a number of Acts including the Race Relations Act 1976, the Sex Discrimination Act 1975 and the Disability Discrimination Act 1995. The main elements of the Equality Act 2010 came into force on 1 October 2010. Public authorities also have responsibilities under equality legislation for ensuring that discrimination does not occur and promoting equality of opportunity on the grounds of race, sex and disability. From April 2011 the public sector equality duty under the Equality Act 2010 requires public authorities to have due regard to certain matters relating to equality when exercising their functions. These matters are: eliminating conduct that is prohibited by the Act; and advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are race, disability, gender, sexual orientation, gender reassignment, age, religion and belief, and pregnancy and maternity.

Account should always be taken of diversity and equality issues. For example, children, young people and adults with a learning disability or people from minority ethnic communities - including the Gypsy/Traveller community - may have specific communication needs and require flexible approaches by staff to engage with them.

## INFORMATION-SHARING AND RECORDING

Sharing appropriate information is an essential component of child protection and care activity. At the same time, children and their families have a right to know when information about them is being shared. Where appropriate, their consent should be sought, unless doing so would increase the risk to a child or others, or prejudice any subsequent investigation.

## **Information-Sharing for Child Protection: General Principles**

The wellbeing of a child is of central importance when making decisions to lawfully share information with or about them.

Children have a right to express their views and have them taken into account when decisions are made about what should happen to them.

The reasons why information needs to be shared and particular actions taken should be communicated openly and honestly with children and, where appropriate, their families.

In general, information will normally only be shared with the consent of the child (depending on age and maturity). However where there is a risk to a child's wellbeing, consent should not be sought and relevant information should be shared with other individuals or agencies as appropriate.

At all times, information shared should be relevant, necessary and proportionate to the circumstances of the child, and limited to those who need to know.

When gathering information about possible risks to a child, information should be sought from all relevant sources, including services that may be involved with other family members. Relevant historical information should also be taken into account.

When information is shared, a record should be made of when it was shared; with whom; for what purpose; in what form and whether it was disclosed with or without informed consent. Similarly, any decision not to share information and the rationale should also be recorded.

It is not necessary to seek consent when there is legislative requirement to share information, for example when making a referral to the Children's Reporter, or the prevention and detection of crime.

## **Confidentiality and Consent**

Privacy and confidentiality is governed by legal provisions that aim to safeguard personal information, particularly:

- the [UN Convention on the Rights of the Child \(1989\)](#)
- the Human Rights Act 1998
- the Data Protection Act 1998
- Common law duty of confidentiality
- professional codes of conduct.

The same legal provisions also provide for sharing of information for purposes such as public protection, crime prevention and crime detection.

The [Data Protection Act 1998](#) provides specific conditions for processing personal information and sensitive personal information respectively. The Act requires that an individual's data be processed fairly and lawfully and that specific conditions/justifications for processing are met. At least one condition from Schedule 2 of the Act must be met before processing personal data and in addition at least one from Schedule 3 of the Act in respect of sensitive personal data. The Schedules provide several conditions/justifications for processing, only the first of which rely on consent - where required, this should be fully informed and freely given. However, the issue of obtaining consent can be difficult and it should only be sought when the individual has real choice over the matter. Where circumstances exist it may not be appropriate to seek consent, for example where an assessment under the wellbeing indicators or Child Protection raises concerns, it will be possible to share information if one of the other conditions in the Schedules is met. This includes where the processing is necessary for the exercise of any function conferred by or under an enactment. Specific reference to the Data Protection Act and to national and/or local guidance supporting it should be made in any case where practitioners are unsure about their ability to share information.

Where agencies are acting in fulfilment of their statutory duties, it is not necessary or appropriate to seek consent - for example, where a referral is made to the Reporter under the [Children's Hearing \(Scotland\) Act 2011](#) or where a report is provided by the local authority in the course of an investigation by the Reporter under the Act.

There is an important distinction between making the child aware that information will/may be shared and seeking their consent for that sharing.

**If a child's wellbeing is considered to be at risk, relevant information must always be shared.**

The application of this principle can be highly sensitive, particularly where children and young people make use of a service on the basis of its confidentiality. Good examples of this are helplines set up to support children and young people, such as [ChildLine](#). Many young people need the time and space that such confidential services can offer to talk about their problems with someone who can listen and advise without necessarily having to refer. However, on some occasions, this contract of confidentiality can be suspended if the information received concerns risks to a child or another person. The [Children and Young People \(Scotland\) Act 2014](#) contains provisions which, when enacted, will introduce a duty to share concerns about a child's wellbeing with the Named Person. In such cases the Act allows for the disclosure of information obtained through confidential service contact, where the requirements set out in the Act have been met.

## Recording and Analysing Information

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

- dates of staff contacts with children and families, indicating all individuals present;
- the child's views and emotional wellbeing;
- actions and decisions and the rationale behind them;
- outcomes of interventions;
- the Child's Plan (incorporating a Child Protection Plan, where the child is believed to be at risk of significant harm); and
- a chronology of significant events involving the child.

Chronologies can help identify patterns of events or accumulation of concerns (or positive developments). They should be reviewed and monitored by managers with a quality assurance role. Care should be taken to ensure chronologies are cross-referenced with relevant information from other agencies.

## Storage and Retention of Records

Good information-sharing depends on the quality of record-keeping and on robust processes for storing information. All agencies have clear procedures for recording and handling personal information, including managing the interface between electronic and manual records. Procedures are also in place for the storage, retrieval, retention and disclosure of information.

Public access to information is governed by the Data Protection Act 1998 and the [Freedom of Information \(Scotland\) Act 2002](#) (FOISA), which came into force in 2005. The subject access provisions of the Data Protection Act 1998 give individuals the right to apply for a copy of any personal data held about them. FOISA gives the public a right of access to information held by public authorities in Scotland, with some reservations to protect personal privacy. FOISA is fully retrospective and applies to all information, not just information created or filed since the Act came into force. Staff should be aware that any information they record may be the subject of an information access request under FOISA. If a member of staff receives a FOISA request, they should refer this to the appropriate person within their agency.

## Sharing of Information Across Areas When a Child Moves

Where there is a change in a child's circumstances and they move to another local authority, the originating area is responsible for forwarding information, including details of any increased levels of risk resulting from the move, to the receiving local area. The [Children and Young People \(Scotland\) Act 2014](#) contains provisions which, when enacted, introduces a legal duty for the Named Person Service Provider to inform the new service provider of that move, and to share information that they consider necessary to promote, support or safeguard a child's wellbeing. Where a Child's Plan is in place, the legislation is specific that, with few exceptions, the area into which the child moves is responsible for the management of the Plan.

Where active involvement with a child and their family is effectively reducing risk and the family then moves, the original area must refer to the receiving area and pass on the child's records. When involvement with the family has recently commenced or terminated, the details of the concerns should be passed on to the receiving area as quickly as possible.



Concerns must be communicated to the receiving area and a written notification provided, even where initial contact was made by other means. This notification should include information on the history of original authority's involvement with the child and their family and the identified risks, including the most recent intervention plan and any progress made. Where the case history is lengthy and/or significant, a face-to-face meeting between relevant staff from both areas should be considered as a follow up to the written referral e.g. NHS use 'Transfer of family requiring continued support' document(CP7).

Where a child or young person is on the [Child Protection Register](#) and moves to another local authority, the process described in the section focusing on transfer [Child Protection Case Conferences](#) should be followed.

For further information on what should happen when a child or young person and their family go 'missing' from an area, see the section on [Children and young people who are missing](#).

## Legislation Relating to Child Protection

Legislation places a variety of duties and responsibilities on services and organisations. These can include:

- duties conferred on services to investigate and respond to concerns about a child's wellbeing, as well as the responsibilities of local authorities to develop community planning processes with partner agencies;
- 'overarching' legislation (e.g. data protection) where some aspects are particularly relevant; and
- other legislation including laws relating to offences against children and young people and to civil law or administrative arrangements,

## Duties to Protect

The legal duty to investigate and report issues in relation to child protection is derived from two sources: the [Police and Fire Reform \(Scotland\) Act 2012](#) which provides the mandate for police officers; and the [Children's Hearings \(Scotland\) Act 2011](#), sections 60-64 of which set out the duties and powers of local authorities, constables, courts and other persons to refer all children who may be in need of compulsory measures of supervision to the Scottish Children's Reporters' Administration, and section 66 of which requires the Principal Reporter to consider whether such compulsory measures of supervision are necessary - in which case the Reporter must refer the case to the Children's Hearing under section 69.

### **Police and Fire Reform (Scotland) Act 2012**

The Police and Fire Reform (Scotland) Act 2012 lays down the duty of a Constable and the overarching policing priorities. The main purpose of policing is to improve the safety and wellbeing of persons, localities and communities in Scotland and, as such, the duty of a Constable includes:

- Prevent and detect crime
- Maintain order
- Protect life and property
- To take such lawful measures and make such reports to the appropriate prosecutor as maybe needed to bring offenders with all due speed to justice'

### **Children (Scotland) Act 1995**

This remains one of the primary pieces of legislation providing the range and scope of local authority intervention in the lives of children and their families. The duties of the local authority within this legislation are, in the main, discharged by statutory social work services.

### **Social Work (Scotland) Act 1968**

Although amended many times over the years, this legislation provides the primary mandate for social work intervention in Scotland. It is the legislation that creates the duty under section 12 to 'promote social welfare'. While this has been added to by the Children (Scotland) Act 1995 to specify 'children in need', the overarching mandate remains that it is the duty of the local authority to ensure that such services are made available across their jurisdiction as could be considered consistent with this duty.

### **Children's Hearings (Scotland) Act 2011**

The Children's Hearings (Scotland) Act 2011 sets out the framework for the care and protection of children by the imposition of Compulsory Measure of Supervision. The Act sets out when referrals must be made to the Children's Reporter, the mechanisms for the provision of Compulsory Measures of Supervision and the forms such measures may take. This Act also sets out the legislation governing emergency measures for the protection of children, including child protection and child assessment orders, emergency applications to justices of the peace and the powers of a constable to remove a child to a place of safety.

### **Local Government in Scotland Act 2003**

Part 2 of this legislation, which is concerned mainly with issues of community planning, contains details of the duty on local authorities to establish and maintain a process of community planning which will include within its functions the scope for developing Child Protection Committees.

Part 3 of the Act deals with the power of local authorities to enhance wellbeing and again this can be interpreted as being relevant to the establishment of Child Protection Committees.

### **The Protection of Vulnerable Groups (Scotland) Act 2007**

This legislation introduced the Protection of Vulnerable Groups (PVG) scheme to replace the former system of Disclosure for people working with vulnerable groups. It identifies categories of employment or contact (regulated work) where there is the expectation that a PVG check will be required and also provides direction on responsibilities of employers. For further information see [Disclosure Scotland](#).

### **Education (Additional Support for Learning) (Scotland) 2004 as amended**

Under section 4 of the 2004 Act, where a local authority has responsibility for the child's or young person's education, and it has been established that the child or young person has additional support needs, the authority has a duty to provide such support as is necessary to help them benefit from school education. Under section 9 of the 2004 Act, where a local education authority has responsibility for the child's or young person's education and it has been established that the child or young person requires a co-ordinated support plan, the education authority has a duty to provide a co-ordinated support plan for the child.

### **Children and Young People (Scotland) Act 2014**

Not all of the provisions in this legislation have been implemented at the time of writing; however this is a significant piece of legislation about children's rights.

The Act contains provisions about:

- the rights of children and young people;
- investigations by the Commissioner for Children and Young People in Scotland;
- the provision of services and support for or in relation to children and young people;
- the statutory operation of the Named Person and Child's Plan;
- the extension of early learning and childcare;

- the role of 'corporate parents';
- the extension of aftercare support to young people leaving care (up to and including the age of 25);
- entitling 16 year olds in foster, kinship or residential care the right to stay in care until they are 21;
- support for kinship care;
- the creation of an adoption register;
- consultation on certain school closure proposals;
- some amendments to children's hearings legislation;
- appeals against detention in secure accommodation; and
- the provision of free school lunches.

There are different implementation dates for different Parts of the Act, and practitioners working in children's rights and services should ensure they keep up to date with the changes being made as the different Parts of the Act are brought into force. Guidance will be produced to support the implementation of the Act.

## Overarching Legislation

### Data Protection Act 1998

The basic principles of the [Data Protection Act 1998](#) remain relevant in terms of the conditions in which any data can be 'processed' and it is the responsibility of the data controller within any organisation to ensure that the key principles set out in the Act are adhered to by all staff. Of particular note in the child protection context are those sections of the Act that relate to confidentiality, sharing of information and disclosure of sensitive information. (For further information, see the section on [Information-sharing](#).)

### Human Rights Act 1998

All legislation passed by either the UK or Scottish Parliament should adhere to the principles of the [European Convention on Human Rights](#). Insofar as it is possible, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention. Sometimes there may be a potential conflict of interest between children and adults and a balancing of competing rights will be required. (For further information, see the chapter on [Principles and Standards](#).)

### **UN Convention on the Rights of the Child**

Ratified by the UK Government in 1991, this Convention serves to inform all subsequent child care legislation. The rights of the child to express their views freely in all matters affecting them and to have them taken into account and the right to have the best interests of the child as a primary consideration in making decisions affecting the child are important aspects of this Convention. Conformity with the standards established by competent authorities is another requirement of the convention. (For further information, see the chapter on [Principles and Standards](#).)

### **UN Convention on the Rights of Persons with Disabilities**

Ratified by the UK Government in 2009, the [UN Convention on the Rights of Persons with Disabilities](#) stipulates that in order for disabled children to be able to realise the rights mentioned above, they need to be provided with disability and age-appropriate assistance.

## PART 2: ROLES AND RESPONSIBILITIES

### AGENCY ROLES AND RESPONSIBILITIES

#### Public/Statutory Services:

##### Local Authority Social Work Services

Social Work services have a general duty for the promotion of Social Welfare. *Children and Families services* have a specific responsibility for:

- supporting families to maintain children within their own home and community where appropriate;
- investigating allegations of child abuse;
- where necessary providing appropriate care placements for children.

The Local Authority have a statutory duty under the Children (Scotland) Act 1995 to safeguard and promote the welfare of 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.

All Social Work services staff have a responsibility to recognise and respond to the needs of children who may be vulnerable and/or at risk of abuse. Concerns of abuse or neglect must be reported to the duty Social Worker (children and families) or to the child's named social worker where one is allocated. Staff must work in close collaboration with colleagues in children and families teams and partner agencies to protect children who may be at risk of abuse. All staff across Social Work Services have a duty to contribute to the assessment of risk of all children.

In all referrals which suggest that a child is in need of compulsory measures of supervision, Social Work Service staff will make enquiries and give the Children's Reporter any information which is relevant about the child.

**Criminal Justice Services** have responsibilities for the supervision and management of risk relating to adults who have committed offences against children and young people, as well as other high-risk offences. Criminal Justice staff may be directly involved in risk assessment, supervision and intervention with adult offenders against children and young people. Alternatively, through the course of their involvement with other service users, concerns about a child's welfare may come to light – for example, in cases of domestic abuse or alcohol and/or drug misuse.

**Youth Justice staff** work with children and young people involved in offending behaviour. Such children and young people may need support in relation to past experiences of abuse, as well as help to manage their offending behaviour. Youth Justice staff may be asked to contribute to risk assessments as well as to support or protection plans. Youth Justice staff can also play an important role in assessing and intervening with children and young people who may present risks to others.

## Education Services

Teachers and all other staff working in schools and nurseries have a key role in promoting the welfare of children and protecting them from harm. They play an important part in the prevention of abuse and neglect through creating and maintaining a safe environment for children and young people and teaching them about staying safe from harm, and how to speak up if they have worries or concerns. Children and young people often see staff within schools as a trusted source of help and support.

Teachers and nursery staff are likely to have the greatest level of day to day contact with children and young people, so are well placed to observe any physical or psychological changes that may indicate that abuse. They are therefore able to contribute a great deal to the assessment of children in need of protection. This will include assessment of the immediate needs of a child (through the IRD process) to assessment of the medium to longer term needs (through participation in child protection case conference, core groups and the review of the Child's Plan).

Through the Curriculum for Excellence, education staff have an important role in equipping children with the knowledge, skills and understanding they need to keep themselves and others safe. This could include offering advice and guidance on issues such as drugs, alcohol, using e-technology and bullying.

All schools will have a designated member of staff with the responsibility for Child Protection. This person will act as the source of support and advice. The designated person or Head/Deputy Head Teacher will have responsibility to ensure that all staff are aware of the Education Standard circular for Child Protection and where to obtain advice and with whom to share their concerns.

Where staff within schools are concerned about the non attendance of a child, the designated member of staff must notify the Head Teacher and instigate the Children missing from Education procedures.

### **Community Education Services**

Community Education Services employ youth and children's workers who also provide support to children and young people in a variety of different settings. Children and young people may seek advice and guidance from staff on issues of a personal nature, including abuse. Community Education Staff also have an important role in identifying, monitoring and supporting children and young people where child abuse is a concern, and reporting any suspected abuse.

### **Housing Service**

The Local Authority and Registered Social Landlords (RSLs – Housing Associations) can make an important contribution to meeting the health and welfare needs of children and young people, particularly those who need safeguarding from harm. The Housing (Scotland) Act 1987 (as amended) sets out the local authority's statutory duties as they apply to the housing of homeless families with children and to young people. Legislation governing the allocation of housing is found in The Housing (Scotland) Act 2001 which applies equally to both the Local Authority Council and RSLs.

The Housing Service has the responsibility for assessing the housing and support need of homeless and other vulnerable persons seeking accommodation. In this respect, the assessment will have regard to the welfare of dependent children and in doing so Housing Service staff will liaise with a range of other services/agencies to ensure that needs are met.



Housing Service staff may come into direct contact with children on a day to day basis. This is generally through estate management, homelessness and the housing benefit system. Housing departments may be involved in providing accommodation or advice in situations where, for example, a parent and child or children become homeless due to domestic abuse or where overcrowding, poor conditions or social isolation contribute to the risk of abuse. Whilst housing department staff will not be directly involved in the investigation of alleged or actual abuse, they may have important information about families to contribute to a child protection enquiry or assessment and should be prepared to share this information and to attend child protection case conferences as required.

Housing services will also often play a key role in the management of risk posed by dangerous offenders. Where the housing service is not provided by the local authority, independent housing organisations and associations can and should still play an active role in supporting and identifying vulnerable children.

## **Cultural and Leisure Services**

Culture and sport services will have a number of services that are specifically designed for or include children, and young people staff, services such as libraries, play schemes and play facilities, parks and gardens, sport and leisure centres, events and attractions, museums and arts centres. Whether these services are directly provided, purchased or grant-aided by volunteers and others contracted by local authorities they should have clear working practices that minimise situations where abuse of children may occur, for example unobserved contact.

Relevant codes of practice for staff should be disseminated where available and staff should also understand the importance of reporting any concerns they have that a child may be in need of protection.

## **Police Scotland – Forth Valley Division**

Police have a general duty to protect the public and to investigate matters on behalf of the Procurator Fiscal, where they believe that an offence may have been committed. There is a clear distinction between the investigative role of the Police and any decision to prosecute individuals, which is the remit of the Procurator Fiscal. Police involvement does not automatically result in an alleged offender being prosecuted.

In many child abuse enquiries a criminal offence will have been committed. The Police have a statutory duty to investigate the circumstances and to report the facts to the Procurator Fiscal. Whenever there is a suspicion that a crime or offence against a child has been committed, the police should be informed immediately. Where appropriate, an investigation will commence, witnesses interviewed and evidence secured without delay. The Police have emergency powers under section 6 (1) of the [Children's Hearings \(Scotland\) Act 2011](#) to ensure the immediate protection of children and young people believed to suffering from, or at risk, of significant harm.

The duty to investigate is always balanced with the welfare of the child. The police will share information and consult as part of an inter-agency assessment to determine whether the matter is a child protection concern, and if so, will share information with other core agencies (health, education and social work), as part of the Initial Referral Discussion (IRD) process. Police officers should also attend child protection case conferences.

Police are obliged, where they have reasonable cause to believe that compulsory measures of supervision may be necessary, to refer a child to the Authority Reporter.

### **Health Services – NHS Forth Valley & NHS 24**

Health staff make a significant contribution to promoting the wellbeing of children and the prevention and detection of abuse.

In this guidance, health staff includes nurses, midwives, health visitors and school nurses, hospital and community-based doctor and nurses, Mental Health professionals, Allied Health professionals. It also includes independent doctors such as GPs, dentists and other independent health professionals such as pharmacists.

Health staff can be described as having the following specific responsibilities:

- Early and effective intervention
- Identifying vulnerability and risk
- Information sharing
- Working on a single agency basis or with partner agencies to promote the health and wellbeing of children and their families
- Adhere to professional codes of practice
- Professional responsibility for maintaining levels of confidence and competence through relevant professional development and learning.

The health service is the key universal service during the early years of a child's life, up until entry into primary school. In the period before birth, and in the first few days after birth, the midwife is normally the Named Person. After this, responsibility passes to the Health Visitor.

Where children move to other areas, health staff will support the continuum of services, and ensure the passing of relevant information to other professionals.

Health professionals may be the first to see symptoms of abuse or neglect, and have a duty to share information about any concerns arising from their suspicions with Children's Services social work colleagues or the police. They will also be asked to work with partner agencies while they carry out the investigation into alleged or suspected abuse or neglect and will be involved in the joint planning. Some of these concerns may arise through working with adults in relation to the parent/carers ability to care for and protect the child.

Health professionals contribute to plans to protect a child, and have a key role to play in providing help and support to families.

Detailed guidance for Health Professionals has been issued by Scottish Government. [Child Protection guidance for Health Professionals \(2013\)](#). Health staff should refer to this and local NHS Forth Valley Child Protection Guidelines for further information.

## **Addictions Services**

Addictions services, whether based within health, social work or the third sector) have an important role to play in the protection of children. They can have a critical role in the ongoing assessment and monitoring of risk by monitoring adults' behaviour, sharing information and participating in Child Protection case Conferences, core groups and other planning meetings. All addiction staff must identify where children are living in the same household as and/or having regular contact with adults misusing alcohol and/or drugs"

Consideration should then be given to how the alcohol and/or drug misuse of the parent or carer impacts on the child, in conjunction with children and family services.

There are also Addiction Services for young people who have drug and/or alcohol issues and these services also need to consider child protection procedures.

Further guidance can be found in '[Getting our priorities right](#)'

## Procurator Fiscal

The Procurator Fiscal has a public duty to:

- consider the terms of reports submitted by police or other agencies and where appropriate to instruct them to make appropriate enquiries;
- consider whether a crime has been committed and whether there is sufficient evidence to take action (by a court or non court disposal). If criminal proceedings are deemed appropriate, to consider in what forum and under what charges an accused person should be prosecuted taking account of all of the circumstances of the offence and the offender;
- set up contact with any child witness, building where possible, on existing relationships between the child and the Social Worker, and to monitor and consider developments until the trial;
- assess with the help of professional colleagues, the most appropriate way for the child to give evidence in any criminal court proceedings and to make appropriate applications to the court;
- work with the Reporter, particularly in cases where there are potentially parallel criminal/Children's Hearing proceedings (for example a child who is referred to the Reporter as a result of an offence committed against him or her by a parent); and exceptionally, to attend child's plan meetings if this is appropriate.

## The Children's Reporter and the Children's Hearing System

The Children's Hearings System is the care and justice system for Scotland's children. It is a unique system which upholds the welfare and rights of children, while ensuring that targeted assistance is provided to those in need of compulsory measures to ensure their care, protection and appropriate behaviour.

Children's Reporters are the independent officials who act as gatekeepers to the system in each local authority, acting on the authority of the Principal Reporter of the Scottish Children's Reporter Administration (SCRA). Children's Reporters receive referrals from a number of sources (such as social services, the police, and parents) as a result of a variety of serious concerns.

Any person may refer a child to the Reporter if they have reasonable cause to believe that the child may be in need of compulsory measures of supervision (i.e. measures of 'protection, guidance, treatment or control'). The Reporter has a duty to make further inquiries before deciding what action is appropriate. To assist the Reporter in reaching a decision, he or she will seek information about the child from various agencies.

The Reporter investigates each referral to decide if the child should be brought before a Children's Hearing. That investigation is focussed on:

- whether there is evidence to establish a formal Ground for Referral to a Children's Hearing; and
- whether the child requires compulsory measures of intervention – a Compulsory Supervision Order, with or without additional conditions or measures.

The Reporter may:

- decide that no further action is required;
- refer the case to the local authority on a voluntary basis for advice, guidance and assistance of the child and his/her family;

The children's hearing can only consider a case where the child and parents or relevant persons accept the grounds for referral stated by the Reporter. Where the grounds of referral are not accepted or the child does not understand them the hearing may direct the Reporter to apply to the sheriff to decide whether the grounds are established. If the sheriff is satisfied that any of the grounds are established, the sheriff will remit the case to the children's hearing for disposal.

After discussion with the child and family and any representatives of the statutory agencies, the children's hearing can decide to impose a supervision requirement where it thinks compulsory measures of supervision are in the best interests of the child. Relevant Persons and children also have the right to appeal against decisions made by a Children's Hearing, and the Reporter is responsible for conducting those appeal proceedings before the Sheriff.

In circumstances where there is insufficient evidence to pursue criminal proceedings the Reporter can still take measures to protect children considered to be at risk. In relation to Child Protection matters, the standard of proof is the balance of probabilities.

## Other Community and Related Services:

### Third Sector and Private Sector Organisations

Many third sector and private organisations play a significant role in work with children and families. They can provide a wide range of services and programmes aimed at preventing or reducing the risk of child abuse, or helping families recover from abuse. Such agencies can also offer advice and consultancy to statutory agencies working with children with additional support needs or communication difficulties.

Statutory agencies should provide advice and support to third sector organisations in promoting effective child protection practice in their agencies.

All third sector organisations should have clear Child Protection policies and procedures in place which clearly outline to staff what they should do if they are worried about a child and where they can get help for the child. Parents/carers should be aware of these policies and have them explained to them.

All staff in third sector organisations should be familiar with the organisations Child Protection policies and procedures and should follow this guidance if they have concerns about a child i.e. record their concerns and share what they have heard or seen with appropriate contacts in Social Work and the Police.

Managers of volunteers who work directly with children and their families have a responsibility to ensure that staff are well supported and are given access to appropriate Child Protection training.

[The Protection of Children \(Scotland\) Act 2003 \(POCSA\)](#) means that disclosure checks must be obtained for all workers in statutory and voluntary organisations and includes paid workers and volunteers.

All staff working in third sector organisations should refer to their own organisations Child Protection procedures. Guidance has been produced for Third Sector/Community groups which can be accessed through the CPC web-sites or by contacting CPC Lead Officers.

## Independent Schools

Schools in the independent education sector must ensure that child protection policies and procedures meet the criteria of the recommendations set out in the Scottish Council for Independent Schools

Guidelines on Child Protection and are closely aligned to these Forth Valley Inter-agency Child Protection guidelines.

The Children (Scotland) Act 1995 placed upon the managers of independent boarding schools a duty to safeguard and promote the welfare of children resident in their schools. The Protection of Children (Scotland) Act 2003 and the Protection of Vulnerable Groups (Scotland) Act 2007 strengthened this duty on schools and on all persons in child care positions to protect children from harm or from being at risk of harm.

Staff should be supported through training and development opportunities to understand their responsibilities to promote the well-being of children and young, and to respond appropriately to children and young people who have been harmed or may be at risk of harm. All schools in the independent education sector must have a designated Child Protection Co-ordinator with a particular responsibility for ensuring effective links with all appropriate agencies.

## Sports Organisations & Clubs

Sports organisations work with a diverse range of children and young people in the community. Some young people may only attend a holiday sport activity, while others may regularly attend and participate in a sports club and a small number are involved in elite sports. All of these activities are run by committed, paid and unpaid coaches and workers who have various degrees of contact with children and young people. These workers will often become significant role models and trusted people in a child's life.

The Safeguarding in Sport service is a partnership between Children 1st and SportScotland which supports sports organisations and individuals across Scotland, including sports governing bodies, clubs, local authorities and parents and carers, to keep children safe in and through sport by providing advice, consultancy, training and support. Organisations and community groups involved in sport activities should familiarise themselves with the [National Strategy for Child Protection in Sport](#) and develop a local child protection policy for their organisation.

## Faith Organisations

It is widely recognised that many churches and faith communities provide regulated care as well as a wide range of voluntary services for children and young people. Religious leaders, staff and volunteers have an important role in protecting children and supporting children and families.

Churches and faith communities provide carefully planned activities for children and young people, supporting families under stress, caring for those hurt by abuse in the past, and ministering to and managing those who have caused harm. It is because of these varied ministries that all reasonable steps are taken to provide a safe environment that promotes and supports the well-being of children and young people. This will include carefully selecting and appointing those who work with children and responding robustly where concerns arise.

All major denominations in Scotland now employ paid professional staff to advise and guide their church in child protection matters. These staff are available for consultation and will work with social workers and police officers as and when required.

## Early Years Providers

Early Years provision can be delivered by private nurseries and day care services including all-day care groups, playgroups, parent and toddler groups and under-5s groups. Many services are provided by third sector organisations but providers may also be private sector or independent groups. Early Years provision can also be delivered by self-employed childminders who must register their services with the Care Inspectorate. As with any service that works directly with children and their families, Early Years providers are often well placed to identify concerns and offer support. Providers should ensure that child protection policies are in place, that staff/volunteers are familiar with these and that they receive regular training in child protection.



## PART 3: IDENTIFYING & RESPONDING TO CONCERNS ABOUT CHILDREN

### Identifying and Managing Risk

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. Decisions on intervention, supports offered or compulsory measures required to immediately protect the child are dependent on professional analysis of accurate and relevant information and robust decision making. Failure to properly identify risk can lead to serious, and even fatal, outcomes for children. The [National Risk Framework to Support the Assessment of Children and Young People \(2012\)](#) aims to support and assist practitioners at all levels, in every agency, in these tasks.

### The Nature of Risk

Risk is a part of everyday life and can be positive as well as negative. In the context of this guidance, risk is the **likelihood** or **probability** of a particular outcome given the presence of adverse factors in a child's life. From a child protection perspective, it is the risk of “**significant harm**” that is central here: where concerns are raised about the potential significant harm to a child, they should be considered **child protection** concerns. There are no absolute criteria for judging what constitutes significant harm:

Sometimes, it can be a single traumatic event, such as a violent assault or intoxication from substance misuse.

Often, it is a combination of significant events which can interrupt, change or damage the child's physical and psychological development.

**The challenge for practitioners is identifying which children require protective measures.**

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.

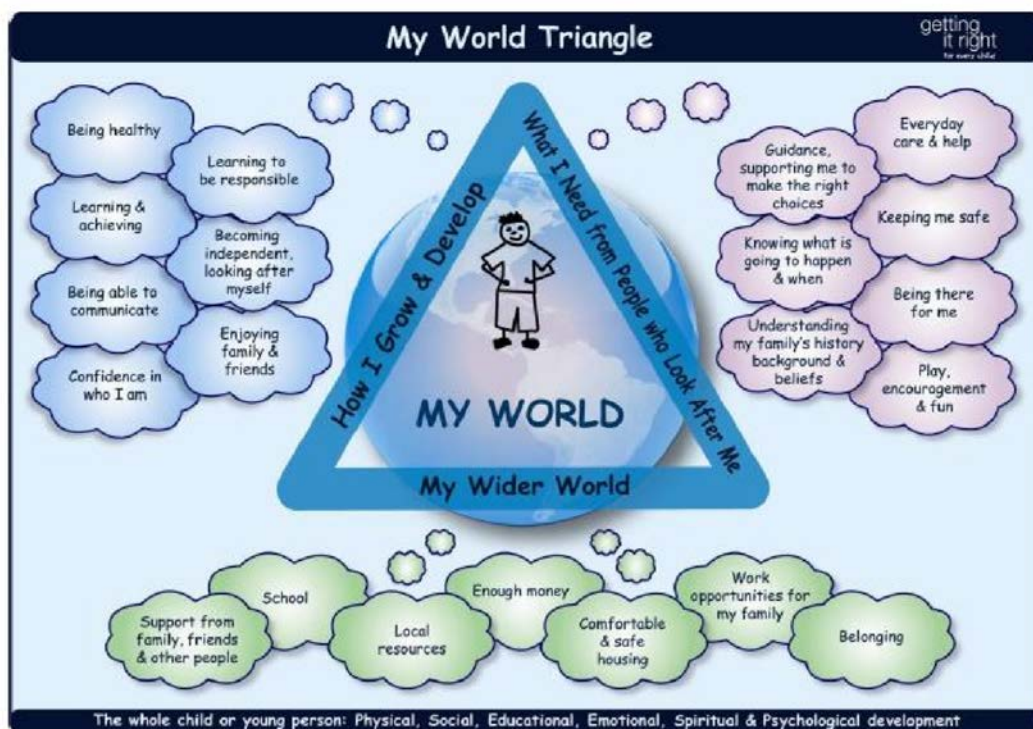
- Is this child or young person at immediate risk?
- What is placing this child at immediate risk?
- What needs to happen to remove this risk now?

The [GIRFEC](#) approach stresses the importance of understanding risks and needs within a framework of the child's whole world and wellbeing. Every child needs to be healthy, achieving, nurtured, active, respected, included, responsible and, above all, **safe**. When assessing a child all staff should therefore be alert to the potential risk factors in their life.

The GIRFEC "practice model" presents a series of tools that are integral to the use of risk assessment: the Wellbeing Indicators; the My World Triangle; and the Resilience Matrix. In some cases where a risk assessment is being undertaken, a Child's Plan may already be in place and this should be used and added to, paying particular attention to any new areas that may result in adverse outcomes for a child or young person.

The **Wellbeing Indicators** provide the broad framework for identifying a child's needs. They do so under eight headings, which should form the basis for single planning around the individual child: safe; healthy; achieving; nurtured; active; respected; responsible; and included. These headings are used to identify what needs to change in the Child's Plan and how progress on outcomes should be monitored and recorded. Because of their role in Child's Plans (and "Child Protection Plans"), they are a key element in the identification of concerns and management of risk.

The **My World Triangle** serves as a starting point for considering what risks might be present in a child's life. The Triangle focuses attention on the three dimensions of a child's world: the child themselves; their family; and their wider environment. Once a concern has arisen, the Triangle is a useful tool for gathering information as part of an investigation, focusing attention on areas where there may be risks of significant harm or assessing the factors that have caused the concerns to arise, as expressed in the following diagram, and help identify where child protection procedures to support the Child's Plan may be.



Practitioners using the My World Triangle will need to consider who is best placed to provide information in relation to the specific areas of a child's life. This will include other practitioners and services, but also the child and family. The five key questions practitioners should consider are the following:

- What is getting in the way of this child or young person's wellbeing?
- Do I have all the information I need to help this child or young person?
- What can I do now to help this child or young person?
- What can my agency do to help this child or young person?
- What additional help, if any, may be needed from others?

Clearly, not all the issues considered under the triangle will involve risk factors. Together, though, they provide a comprehensive outline of areas to be considered when assessing a child's circumstances. In addition, consideration also needs to be given as to whether Compulsory Measures of Supervision might be necessary.

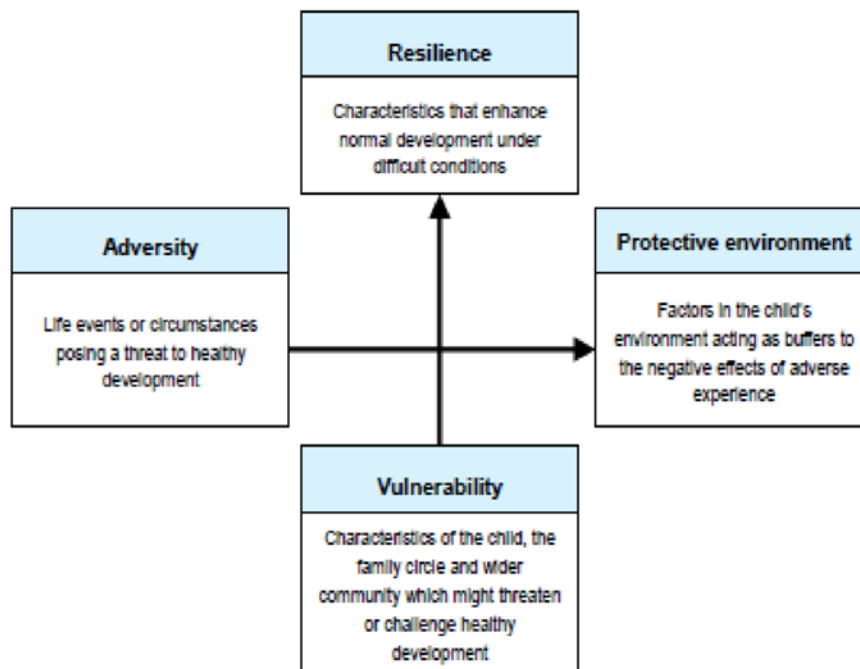
## Identifying Vulnerabilities and the Need for Risk Assessment

Using the My World Triangle to identify risk factors is the first step in assessing risk. The next step is to look at how those factors impact on the individual child. The **Resilience Matrix** provides a framework for weighing up particular risks against protective factors for the individual child. By helping practitioners make sense of the relationship between the child's levels of vulnerability or resilience and the world around them, the matrix may also help highlight areas of risk that need more comprehensive or specialist assessment and analysis. As the diagram below shows, the matrix can be used to examine factors in relation to:

- vulnerability and unmet needs;
- adversity;
- strengths or protective factors; and
- resilience

This step marks the start of the process of “unpacking” the individual child's circumstances and exploring their potential impact. The child's circumstances can be plotted on each of the two continuums, allowing the practitioner to see where the impact of these circumstances places them within the matrix and, therefore, how at risk they are:

- resilience within a protective environment (low risk);
- resilience within adverse circumstances (medium risk);
- vulnerable within a protective environment (medium risk); and
- vulnerable within adverse circumstances (high risk).



Where it emerges that a vulnerable child is living in a situation with a high level of adversity, a detailed risk assessment should be carried out and advice sought from professionals with specialist knowledge and skills, for example, working with parental problematic alcohol or drug use, or children with disability or communication difficulties.

[The National Risk Framework to Support the Assessment of Children and Young People \(2012\)](#) aims to support and assist practitioners at all levels, in every agency, to be able to approach the task of risk identification, assessment, analysis and management with more confidence. **Assessing risk**

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 longer-term outcomes for children.

Risk assessments are needed in numerous different situations, but in particular:

- where significant harm may arise from a single event; and
- where significant harm may result from an accumulation of events or circumstances.

### Risk Assessment of a Single Event

In some child protection circumstances, urgent action is needed to protect the child from any further harm and the immediate safety of the child is the priority consideration. Where such concerns arise and can be immediately verifiable – for example, sexual assault or injury – risk assessment must be carried out straight away in order to guarantee the child's safety.

However, once these steps have been taken, practitioners will need to determine the longer-term safety of the child. Risk identification and management at this stage will focus on the likelihood of future significant harm to the child, the family's capacity for change and the interventions needed to reduce risk of that significant harm.

In other circumstances, a specific, individual concern may be raised about a child and professional judgement will be needed to determine the likelihood and scope of any significant harm. Further investigation may be required to determine the nature and circumstances of events, and a balance will need to be struck between understanding what **has** happened and what **may** happen.

### Risk Assessment of Accumulative Concerns

Children are often identified as being at risk of significant harm not as a result of a one-off incident but rather because of increasing, ongoing concerns about their circumstances. These concerns may appear relatively minor in themselves but, together, trigger a need to act.

There may also be a need for ongoing assessment of a child who is already subject to child protection actions. Practitioners will need to assess whether there have been any improvements in a child's circumstances – for example, an increase in parenting capacity – and whether there are still important unmet needs.

## Managing Risk through Child Protection Plans

Having identified risks to a child and their actual or potential impact, the next step will be to consider strategies and interventions for reducing those risks. This will form part of the **Child Protection Plan**, incorporated within the Child's Plan. Again, consideration should be given to immediate and short-term risks as well as longer term risks to the child. Objectives should be set out following the criteria SMARTER:

Specific, Measurable, Attainable, Relevant, Timebound, Evaluate and Re-evaluate.

Child Protection Plans, which have been incorporated into the Child's Plan, should set out in detail the perceived risks and needs, what is required to reduce these risks and meet those needs, and who is expected to take any actions forward including parents and carers (as well as the child themselves). Children and their families need to understand clearly what is being done to support them and why.

Any interventions should be proportionate and clearly linked to a desired outcome for the child. Progress can only be meaningfully measured if the action or activity has a positive impact on the child. The Wellbeing Indicators can help to measure this progress. The Child Protection Plan which is incorporated into the Child's Plan should include a detailed explanation of specific needs, risks, interventions and desired outcomes under each indicator.

They should also clearly identify:

- the key people involved and their responsibilities;
- outcomes and timescales;
- support and resources required and, in particular, access to specialist resources;
- the process of monitoring and review; and
- any contingency plans and whether Compulsory Measures of Supervision should be required.

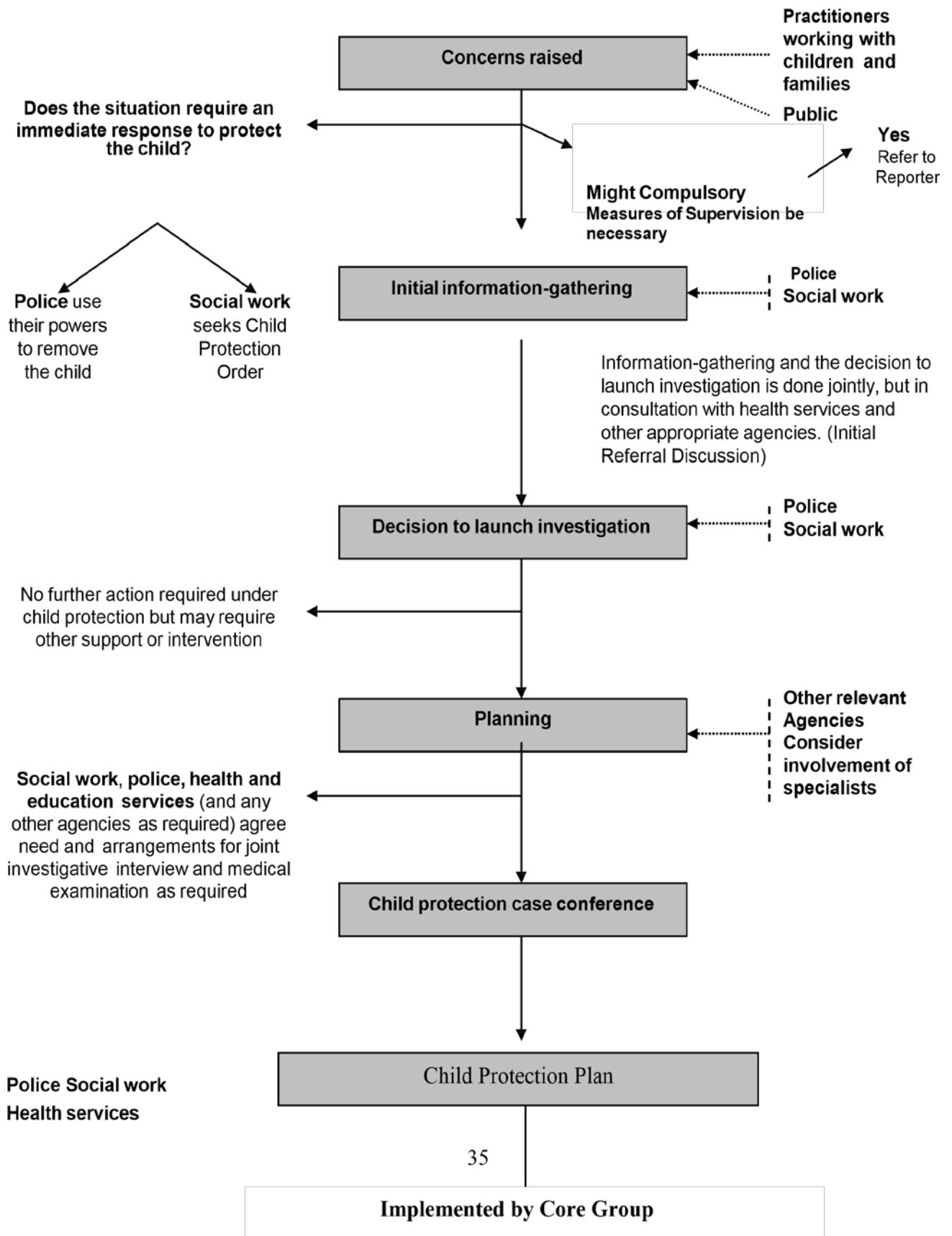
## Responding to Concerns about Children

All staff who work and/or come into contact with children and their families have a role to play in child protection. That role will range from identifying and sharing concerns about a child or young person to making an active contribution to joint decision-making and/or planning an investigation to supporting the child or young person and their family. It should be noted, however, that where agencies have a specific role, they should still be making use of information from all relevant services and operating as part of a multi-agency response.

(See chapter on [Agency Roles and Responsibilities](#))

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 required to protect the child or no further response under child protection is necessary.





Formal child protection measures can be broadly divided into a number of different stages, which are discussed in detail in the sections below:

- **RECOGNISING ACTUAL OR POTENTIAL HARM TO A CHILD;**
- **SHARING CONCERNS AND INITIAL INFORMATION-GATHERING;**
- **JOINT INVESTIGATION/ASSESSMENT;**
- **MEDICAL EXAMINATION AND ASSESSMENT;**
- **CHILD PROTECTION CASE CONFERENCES; AND**
- **DEVELOPING A CHILD PROTECTION PLAN.**

At each stage, consideration must be given to whether emergency action is required to protect the child and to involving the child or young person and their family, and to whether Compulsory Measures of Supervision might be necessary and a referral should be made to the Children's Reporter.

Investigating services, such as Social Work and the Police, are responsible for considering, at all stages, whether the child's safety is at risk. They should also look at the appropriateness of continuing to carry out a child protection investigation when it is clear that there are alternative explanations for the presenting concerns. Child protection investigations may highlight significant unmet needs for support and services among children and families. These should always be explicitly considered, even where concerns about significant harm are unsubstantiated.

### **Recognising Actual or Potential Harm to a Child**

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 reports from the child themselves, from a third party, or from concerns raised anonymously. Concerns may be relayed in the first instance through an intermediary service such as third sector helplines. Where concerns have been raised by an intermediary service, the agency receiving the information should provide written acknowledgement and relevant follow up information where appropriate. Alternatively, an existing Child's Plan may act as the focus for a range of concerns.

A child who has been abused and/or neglected may show obvious physical signs of injury or maltreatment. However, an assessment of whether a child is experiencing, or likely to experience, harm should also look closely at the child's behaviour and/or development.

Where staff are unsure about a child or young person's wellbeing, they should seek advice in line with local protocols. Any indicators of risk, such as domestic abuse or problematic alcohol and/or drug use (as discussed in Part 4 of the guidance), do not in themselves mean that a child has or is experiencing, or is likely to experience, harm. However, they should act as prompts to practitioners to consider how the particular risk indicator or set of indicators is impacting on a child, and to consider whether there are grounds for a referral to Social Work or to the Reporter.

Concerns will also arise where 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](#) has been committed; or as a person who has committed any of the offences mentioned in Schedule 1. In either case, the concerns should be shared with social work services without delay and in line with local guidelines, if this has not already happened.

Where concerns about a child's wellbeing come to the attention of any agency, staff will need to determine the nature of the concern and what the child may need. Any immediate risk should be considered at the outset, by whichever practitioner first comes into contact with the child and, thereafter, throughout the course of any subsequent investigation. Where immediate risk is not identified, practitioners should consider the five questions highlighted in the earlier section on [the nature of risk](#). Practitioners should also consider whether there might be a need for Compulsory Measures of Supervision. If so, a referral should be made to the Children's Reporter. This may result in other agencies being asked for information or for their view of a child's or family's needs and sharing professional concerns at an early stage. Agencies should not make decisions about a child's needs without feeling confident that they have the necessary information to do so.

Where practitioners have concerns about possible harm to a child, it is vital that these are shared with the Named Person and with social work services so that staff responsible for investigating the circumstances can determine whether that harm is **significant**. Concerns should be shared without delay and when Compulsory Measures of Supervision might be required a referral should be made to the Children's Reporter. Where a child is felt to be in immediate danger practitioners should report, without delay, directly to the police. Similarly, where a child is thought to require immediate medical assistance, this should be sought as a matter of urgency from the relevant health services.

All notifications of concerns about children should be taken seriously. Staff responsible for responding to these concerns should be aware that even apparently low-level concerns may point to more serious and **significant harm**.

Child protection concerns should be discussed in the first instance with social work staff:

Clackmannanshire	Stirling	Falkirk
01259 225000	01786 471177	01324 506400
Outwith normal working hours: 01786 470500		
In an emergency, contact Police Scotland on 999. For non urgent police concerns, call 101		

When making a child protection referral to social work, consideration should be given to the following:

- Child's name, address and date of birth
- Parent's address and current whereabouts
- Where the child is currently
- Your details
- Your involvement with the child/family
- What your concerns are or any details of alleged abuse
- Whether there are any other children in the household
- Whether the parents/carers are aware of your concerns

**DO NOT DELAY SHARING YOUR CONCERNS IF YOU DON'T HAVE ALL OF THIS INFORMATION**

Telephone calls should be followed up in writing using the standard Child Protection Referral Form.

Where a child or young person is believed to be at immediate risk, intervention should not be delayed pending receipt of information.

## Joint Investigation/Assessment

Joint assessment and planning for an investigation will be undertaken during an [Initial Referral Discussion](#) involving social work, police, health and education staff. Consideration will be given to such things as location for interview or specialist support for the child.

The purpose of joint investigations is to establish the facts regarding a potential crime or offence against a child and to gather and share information to inform the assessment of risk and need for that child and the need for any protective action.

Children undergo fewer interviews and medical examinations when agencies act jointly, reducing disruption and distress to them and their families. Joint investigative interviews will be undertaken by suitably trained police officers and social work staff in accordance with the [Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland](#).

## Emergency Legal Measures to Protect Children at Risk

In some cases urgent action may be required to protect a child from actual or likely significant harm or until compulsory measures of supervision can be put in place by the Children's Hearing System. At times, a child's parents or carers may agree to local authority social work services providing the child with accommodation and looking after them until concerns about the child's safety, or reports or suspicions of abuse or neglect, can be clarified. Social work services might also consider whether others in the child's extended family or social network could look after the child while agencies carry out further inquiries or assessment. There will, however, be cases where the risk of significant harm, or the possibility of the parents or carers removing the child without notice, makes it necessary for agencies to take legal action for their protection. **Any person** may apply to a Sheriff for a Child Protection Order, or the local authority may apply for an Exclusion Order. The Child Protection Order authorises the applicant to remove a child from circumstances in which he or she is at risk, or retain him or her in a place of safety, while the Exclusion Order requires the removal of a person suspected of harming the child from the family home.

In exceptional circumstances, where a Sheriff is not available to grant a Child Protection Order or a child requires to be immediately removed from a source of danger, any person may apply to a Justice of the Peace for authorisation to remove or keep a child in a place of safety. In addition, a police constable may immediately remove a child to a place of safety

where he or she has reasonable cause to believe that the conditions for making a Child Protection Order are satisfied, that it is not practicable to apply to a Sheriff for such an order and that the child requires to be removed to a place of safety to protect them from significant harm. In both cases, the child can only be kept in a place of safety for a period of 24 hours and further protective measures may have to be sought.

The [Children's Hearing \(Scotland\) Act 2011](#) (s35 and s36) also makes provision for the local authority to apply for a Child Assessment Order if it has reasonable cause to suspect that a child may be suffering or is likely to suffer significant harm and that it is unlikely that an assessment to establish this could be carried out without obtaining the order (for example, where those with parental responsibility are preventing an assessment of the child being undertaken to confirm or refute the concern). The Child Assessment Order can require the parents or carers to produce the child and allow any assessment needed to take place so that practitioners can decide whether they should act to safeguard the child's welfare. The authority may ask, or the Sheriff may direct, someone such as a GP, paediatrician or psychiatrist to carry out all or any part of the assessment. The order may also authorise the taking of the child to a specified place, and keeping them there, for the purpose of carrying out the assessment and may make directions as to contact if it does so. Where the child is of sufficient age and understanding, they may refuse consent to a medical examination or treatment whether or not a Child Assessment Order is made.

## **Involving Children and Families**

As with all activity with children and young people, 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. This may be supported by accessing advocacy services. 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 wellbeing. Children should be listened to at every stage of the child protection process and given appropriate information about the decisions being made. When a child has additional support needs, is deaf or hard of hearing, has a disability or English is not their first language, advice and support may be required to ensure that they are fully involved in what is happening.

Careful consideration needs 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.

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 needs and services provided to meet those needs. It is good practice to provide a confidential and independent counselling service for victims and families taking into account the need to avoid the contamination of evidence. Agencies who know the child or adult, including third sector 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.

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

### **Family Members and Carers**

When undertaking child protection investigations, the need to develop a cooperative 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 a family's strengths as well as its weaknesses.

Practitioners should ensure that the parents/carers understand that the first consideration is making sure the child is safe.

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.

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 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 particularly sensitive or confidential nature, or deal with a matter which is likely to lead to criminal inquiries.

It is important that, where there are child protection concerns and one or both of the parents/carers has learning difficulties, the use of an independent advocacy service, where available, is always considered.

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.

### **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 welfare of the child, practitioners should attempt to engage with the non-abusing parent/carer 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.

Where [domestic abuse](#) is present, practitioners need to be aware of the control and power dynamics within the family. Care needs to be taken in sharing information with a perpetrator of domestic abuse to ensure that it does not increase the risk to the non-abusing parent



(usually the mother) and any children. Supporting and protecting a non-abusing parent can be the most effective way to protect children within the household

## Health Assessment and Medical Examination

Consideration of a **Medical Referral Discussion** should be part of the **Initial Referral Discussion** process. The MRD will be undertaken by a Police Officer and Paediatrician at Forth Valley Royal Hospital. If a medical is required arrangements will then be made.

### Comprehensive Medical Assessment

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 care plans;
- to secure any ongoing health care (including mental health), monitoring and treatment that the child may require; and
- to reassure the child and the family as far as possible that no long-term physical damage or health risk has occurred.

A specialist paediatric or joint paediatric/forensic examination may need to be carried out. The joint paediatric/forensic examination 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 or transferred fibres.

More detailed information about the roles and responsibilities of medical practitioners and child protection can be found in [Child Protection Guidance for Health Professionals](#). This assessment, alongside information from police, social work and other services, can help determine whether further investigation is necessary.

### Consent to Medical Treatment

Consent is required for medical treatment and examination. Parental consent should be sought if the parents have parental rights and responsibilities and the child is under 16, unless this is clearly contrary to the safety and best interests of the child (for example, in urgent circumstances). However, the [Age of Legal Capacity \(Scotland\) Act 1991](#) allows that a child under the age 16 can consent to any medical procedure or practice if in the opinion of the attending qualified medical practitioner they are capable of understanding the possible

consequences of the proposed examination or procedure. Children who are judged of sufficient capacity to consent can withhold their consent to any part of the medical examination (for example, the taking of blood or a video recording). Clear notes should be taken of which parts of the process have been consented to and by whom.

In order to ensure that children and their families give properly informed consent to medical examinations, the examining doctor, assisted if necessary by the social worker or police officer, should provide information about any aspect of the procedure and how the results may be used. Where a medical examination is thought necessary for the purposes of obtaining evidence in criminal proceedings but the parents/carers refuse their consent, the Procurator Fiscal may consider obtaining a warrant for this purpose. However, where a child who has legal capacity to consent declines to do so, the Procurator Fiscal will not seek a warrant. If the local authority believes that a medical examination is required to find out whether concerns about a child's safety or welfare are justified, and parents refuse consent, the local authority may apply to a Sheriff for a Child Assessment Order or a Child Protection Order with a condition of medical examination. A child subject to a Child Protection or Assessment Order may still withhold their consent to examination or assessment if they are deemed to have legal capacity. For further information on Child Protection and Assessment Orders, see the section on [Legal measures](#).

## Child Protection Case Conferences

Child Protection Case Conferences (CPCCs) are multi agency meetings that enable services and agencies to share information, assessments and chronologies in circumstances where there are suspicions or reports of child abuse and neglect. They are a core feature of interagency co-operation to protect children and young people. Their **primary purpose** is to consider whether the child –including an unborn child- is at risk of significant harm and if so, to agree the actions by which those risks can be reduced. All relevant information held by the Named Person and each agency would be analysed on an interagency basis to:

- assess the degree of existing and likely future risk to the child and other children or young people in the household;
- review an existing Child's Plan or develop / review a [Child Protection Plan](#);
- consider the views of the child/parents/carers;
- identify the child's needs and how these can be met by services and agencies;
- identify a Lead Professional;

- decide whether to place or retain a child's name on the Child Protection Register; and
- consider whether a referral to the Reporter to the Children's Hearing is needed if this has not already been done.

All those attending the meeting should maintain an outcome focused approach.

The need for a conference should be discussed at an early stage in investigations. Any agency can request a CPCC.

An effective interim risk management plan should be in place covering the time from the notification of child protection concern to the CPCC.

### **Please Refer to Local Procedures for Further Information.**

Local CPCC procedures should include:

- clear arrangements in place for sharing information held by schools and ensuring education representation during school holidays.
- responsibility to adequately prepare the parent and young person for the Case Conference by explaining the process of the meeting beforehand and encouraging them to present their own contribution whether in written form, verbally or by use of other media.
- arrangements to ensure that the child and parents' view is made known to the meeting.

There are four types of CPCC

#### **Initial Case Conference**

The purpose of an initial CPCC is to allow representatives from across services to share information about a child or young person for whom there are child protection concerns, jointly assess that information and the risk to the child or young person and determine whether there is a likelihood of significant harm through abuse and neglect that needs to be addressed through a multi-agency Child Protection Plan. The initial CPCC should also consider whether the child is safe to remain at home or a referral to the Children's Reporter is required.

The initial CPCC 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 a CPCC.

### **Continued Initial Case Conference**

In rare circumstances it may not be possible to make a decision regarding registration at an Initial Case Conference. For example, important information which would inform such a decision may not be available to the meeting or an anticipated event which would place a child at risk has yet to occur. Similarly, it may not always be possible to assess immediately whether the abuse is an isolated incident or part of a more chronic pattern of difficulties. In these situations it may be appropriate to delay the decision regarding registration for a period whilst further assessment occurs and then to reconvene the Initial Case Conference to look again at registration thereafter. In such circumstances it is important to be mindful that delay in itself may increase stress for a family and a clear explanation should be given as to why the Initial Case Conference is to be continued. The reconvened Case Conference should take place no later than between 3- 8 weeks of the initial case conference.

It should be noted that as the Register is not regulated by statute, an unborn child can be placed on the Register. Where an unborn child is felt to require a Child Protection Plan, their name should be placed on the Register; and whether there should be a discharge meeting and a handover to community- based supports. The pre-birth CPCC should take place **no later than at 28 weeks pregnancy** or, in the case of late notification of pregnancy, as soon as possible from the concern being raised but always **within 21 calendar days** of the concern being raised. There may be exceptions to this where the pregnancy is in the very early stages. However, concerns may still be sufficient to warrant an inter-agency assessment.

### **Pre-Birth Child Protection Case Conference**

The purpose of a pre-birth CPCC is to decide whether serious professional concerns exist about the likelihood of harm through abuse or neglect of an unborn child when they are born. The participants need to prepare an inter-agency plan in advance of the child's birth.

They will also need to consider actions that may be required at birth, including;

- whether it is safe for the child to go home at birth;
- whether there is a need to apply for a Child Protection Order at birth;
- whether the unborn child's name should be placed on the [Child Protection Register](#).

The inter-agency plan should also consider actions required to reduce the risk to the unborn baby pre-birth. For example, addressing concerns related to maternal substance misuse and exposure to domestic abuse.

### **Pre–Birth Planning Meeting**

This is an inter-agency forum convened by NHS (Forth Valley) for sharing relevant information where there are low-level concerns about an unborn child. The purpose of the meeting is to identify need and to devise a support package to offer support to prospective parents and their baby following the birth. Prospective parents, agencies with current knowledge of the family and those who may become involved following a comprehensive assessment of need are invited. The relevant social work team manager is advised of the meeting and a report is requested. The Team Leader/ Manager also receives a minute of the meeting. This meeting is not a substitute for a Pre birth Child Protection Case Conference and referral must be made to social services if there is a high level of concern. For example, in cases where:

- There has been a previous child death in the family
- Previous children/siblings have been accommodated by the Local Authority
- Children/siblings names have previously been, or are currently on the Child Protection Register
- There is the presence of a Schedule One Offender or a serious violent or sexual offender in the home
- There is domestic abuse
- There is serious parental drug misuse
- There are serious parental mental health issues
- The parents have a significant learning disability

### **Review Child Protection Case Conferences**

The first review CPCC should be held within three months of the initial CPCC. Thereafter, reviews should take place six-monthly, or earlier if circumstances change. Where a child is no longer considered to be at risk of significant harm and the Child Protection plan no longer forms part of the Child's Plan, their name should be removed from The Child Protection

register by the review CPCC. The child and family may require on-going support and this should be managed through the Childs Plan.

### **Transfer Child Protection Case Conferences**

Transfer CPCCs specifically cover the transfer of information about a child where a Child Protection Plan is currently in place. Only a review CPCC can de-register a child from the Child Protection Register. Where a child and/or their family move permanently to another local authority area, the original local authority will notify the receiving local authority immediately, then follow up the notification in writing. Where the child moves to another authority the originating authority needs to assess this change in circumstances. If there is felt to be a reduction in risk the originating authority should arrange a review CPCC to consider the need for on-going registration, or, if appropriate, de-registration. In such circumstances it would be best practice for an appropriate member of staff from the receiving authority to attend the review. Where the original authority considers that the risk is on-going or even increased by the move, the receiving local authority is responsible for convening the transfer CPCC. This should be held within the timescales of the receiving local authority's initial CPCC arrangements but within a **maximum of 21 calendar days**

Where a child and their family move from one Scottish authority to another then:

- if the child has a Child Protection Plan, the case records and/or file needs to go with the child; or
- if the child is subject to a Supervision Requirement, the case records and/or file needs to go with child
- Where a child was on the Child Protection Register previously in another area, the receiving authority should request the child's file from the previous authority (if still available). At the transfer CPCC, the minimum requirement for attendance will be the original local authority's allocated social worker and the receiving local authority social worker, plus the appropriate managers as well as representatives from appropriate services including health and education

### **Child Protection Register**

All local authorities are responsible for maintaining a central register of all children - including unborn children - who are the subject of an inter-agency Child Protection Plan. This is called the Child Protection Register.

## **Child Protection Register**

The register has no legal status but provides an administrative system for alerting practitioners that there is sufficient professional concern about a child to warrant an inter-agency [Child Protection Plan](#). Social services are responsible for maintaining a register of all children in the area who are subject to a Child Protection Plan, though the decision to put a child on the register will be based on a multi-agency assessment. The Child Protection Register provides a central resource for practitioners concerned about a child's safety or care. Social services should inform the child's parents or carers and, where the child has sufficient age and understanding, the child, verbally and in writing, about the information held on the register and who has access to it.

When placing a child on the register, it is no longer necessary to identify a category of registration relating to the primary type of abuse and neglect. Instead, social services should ensure the child's name and details are entered on the register, as well as a record of the key areas of risk to the child. The key areas of risk will be identified and agreed during the CPCC and should be addressed in the Child Protection Plan and recorded in the meeting minutes.

All participants at a CPCC with significant involvement with the child/family have a responsibility to contribute to the decision as to whether or not to place the child's name on the Child Protection Register. Where there is no clear consensus in the discussion, the Chair will use his or her professional judgement to make the final decision, based on an analysis of the issues raised.

## **CPCC Attendance**

Attendance at Child Protection Case Conferences should reflect the range of agencies involved with the family and concerned about the child's protection. The key to child protection is effective communication at all levels. Effective communication involves the sharing of confidential information and particular care is needed to ensure that the right of a child or young person and family to confidentiality is respected. A child, young person's or family's wish for information not to be shared, however, may not be in keeping with safeguarding the child or young person's welfare which must be the paramount consideration.



It is important to include all professionals who may have contact with the child or young person and family, including relevant adult services representatives. Minutes of the case conference are distributed to all professionals who have been invited whether they have attended or not.

Parents, children and young people (dependent on their age and the appropriateness of attending) are encouraged to attend and participate in Child Protection Case Conferences. Should a parent, child or young person prefer to attend only a part of the meeting, or to meet with a smaller group of people at the end of the Case Conference, this can be accommodated through prior discussion with the chairperson by e.g. the allocated Social Worker. Parents, children and young people may request that a friend or representative e.g. advocacy worker, accompany them.

In exceptional circumstances, the chair may determine that a parent/carer should not be invited to or be excluded from attending the CPCC (for example, where bail conditions preclude contact or there are concerns that they present a significant risk to others attending, including the child or young person). The reasons for such a decision need to be clearly documented. Their views should still be obtained and shared at the meeting and the chair should identify who will notify them of the outcome and the timescale for carrying this out. This should be recorded in the minutes.

Parents and carers attendance at case conferences:

**Please refer to local procedures:**

[Clackmannanshire procedures](#)

[Falkirk procedures](#)

[Stirling procedures](#)

Children and young people attendance at case conferences:

**Please refer to local procedures.**

[Clackmannanshire procedures](#)

[Falkirk procedures](#)

[Stirling procedures](#)

## **CPCC participants**

CPCC participants need to include:

- Local Authority social worker(s);
- 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 children's paediatrician where applicable; and
- police where there has been involvement with the child, young person and / or the parents

Other participants might include foster carers, other health practitioners (including mental health service staff, speech and language therapist), adult services practitioners (including health, substance misuse and mental health), housing staff, addiction services practitioners, educational psychologists, relevant third sector organisation representatives and representatives of the Procurator Fiscal and armed services staff where children of service personnel are involved. On occasion a Children's Reporter may be invited to attend although their legal position means they can only act as an observer and cannot be involved in the decision-making.

### **Professional Only Part of Conference**

The emphasis is always on participation and openness in preparing reports and records. This usually ensures that the child and family are fully aware of what has been recorded and will be presented to the meeting. Exceptions to this are when the safety and welfare of a child, young person or other person is placed in jeopardy by giving full access to all parties to the report and/or full minutes of the Case Conference.

All information is shared unless there are good reasons for withholding it. In receiving Information, social services will assume that it can be disclosed without future reference to the source unless the information contains a clear indication to the contrary.

All agencies may request that a professional only part of the case conference takes place. This can be done by contacting the chairperson for discussion in advance of the meeting or at any point during the case conference. The chairperson will decide, on the basis of the information shared, whether the request is appropriate or not. The chairperson will normally

make the family aware of the need for professionals to have a discussion in their absence and as far as is possible and provide reasons as to why it is thought necessary.

### **Restricted Information**

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; and 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**

Reports should be produced and co-ordinated to ensure that relevant information is effectively shared with conference participants and supports good decision-making. Where possible, composite reports for each child or young person should be produced – either in advance of the CPCC meeting or soon afterwards – with the Lead Professional collating information and all relevant participants (particularly the child, young person and family) contributing.

The report/s should include all relevant information and a chronology. Where possible an integrated chronology should be completed by the Lead Professional. They should also include information pertaining to significant adults in the child or young person's life and provide a clear overview of the risks, vulnerabilities, protective factors and the child or young person's views. Other children in the household or extended family should also be considered.

Invitees have a responsibility to share the content of the report(s) with the child, young person and family in an accessible, comprehensible way. Particularly prior to an initial CPCC, consideration needs to be given as to the most appropriate means of sharing reports with the child, young person and family and to when it should be done.

Reports should, where possible, include recommendations for consideration during the CPCC meeting.

## **Please refer to local procedures**

[Clackmannanshire procedures](#)

[Falkirk Procedures](#)

[Stirling Procedures](#)

## **Minutes of the CPCC meeting**

The minutes of the meeting should be distributed **within 15 days** of the conference.

Decisions to restrict circulation of minutes are taken by the Conference Chairperson. This would only occur if the distribution of the minutes would have an impact on the safety of the child.

## **Dispute resolution**

Dispute resolution is a way of managing:

- challenges about the inter-agency process;
- challenges about the decision-making and outcomes;
- challenges by children/young people or their parents/carers about the CPCC
- decisions; and
- complaints about practitioner behaviour.

## **Please refer to local procedures.**

[Clackmannanshire Procedures](#)

[Falkirk Procedures](#) Including Child Protection Case Conference Appeal of Decision Process <https://blogs.glowscotland.org.uk/fa/GirfecFalkirk/files/2015/06/CPCCs-Appeal-of-Decision-Process-FINAL-050117-2.pdf>

[Stirling Procedures](#)

## **Child Protection Plan**

Having identified risks to a child or young person and their actual or potential impact, the next step will be to consider strategies and interventions for reducing those risks. This will form part of the Child Protection Plan and may build on work already undertaken in the context of a Child's Plan.

Consideration should be given to immediate and short-term risks as well as longer-term risks to the child or young person. In addition, Child Protection Plans should reflect a child or young person's wider emotional, social and developmental needs, as well as their child

protection needs. Child Protection Plans should set out in detail the perceived risks and needs, what is required to reduce these risks and meet those needs, and who is expected to take any actions forward including parents and carers (as well as the child or young person themselves). Children, young people and their families need to understand clearly what is being done to support them and why. Any interventions should be proportionate and clearly linked to a desired outcome for the child or young person. Progress can only be meaningfully measured if the action or activity has a positive impact on the child or young person.

Child Protection Plans are expected to be **Specific, Measurable, Attainable, Relevant** and be **Time bound (SMART)**.

A copy of the Child Protection Plan should be sent out **within 5 calendar days** of the CPCC to all participants. It should be recognised that the early Child Protection Plan may need to be provisional until a fuller assessment can be undertaken.

**Please refer to local procedures.**

[Clackmannanshire procedures](#)

[Falkirk Procedures](#)

[Stirling Procedures](#)

### **Removing a Child or Young Person's name from the Child Protection Register (Review CPCC)**

If and when the practitioners who are working with the child or young person and family decide that the risk of significant harm to the child or young person has been sufficiently reduced and the child or young person is no longer in need of a Child Protection Plan, social services will remove the child from the Child Protection Register. The decision to remove a child or young person's name will be made at a review CPCC at which all the relevant agencies are represented, as well as the child, young person and their family. When a child or young person's name is removed from the register, the child, young person and their family must be informed.

Removal of a child or young person's name from the register should not necessarily lead to a reduction or withdrawal of services or support to the child or young person and family by any or all of the agencies. The risk of significant harm to the child or young person may have receded, but the child or young person may continue to require a range of support; this will form part of the single planning process for the child or young person. At the point of

deregistration, consideration should be given to whether a different Lead Professional should be appointed and, if so, arrangements made for the transfer to be agreed. The Child Protection Plan will, following de-registration, be referred to as the Child or Young Person's Plan. A de-registration [core group](#) should be convened following the de-registration of a child or young person from the Child protection Register.

**Please refer to local procedures.**

[Clackmannanshire procedures](#)

[Falkirk Procedures](#)

[Stirling Procedures](#)

### **De-registration of Accommodated Children**

When a child or young person whose name is on the Child Protection Register is accommodated by the local authority as a result of a decision by a Children's Hearing or otherwise, his or her name will only be removed from the Child Protection Register if that is the decision of a case conference. A combined child protection case conference/ child care review will be convened in these circumstances. Following de-registration and if the child or young person remains accommodated, the child/young person will continue to be reviewed within the child care reviewing system.

**Please refer to local procedures.**

[Clackmannanshire procedures](#)

[Falkirk Procedures](#)

[Stirling Procedures](#)

### **Temporary Moves of Children who are on the Child Protection Register**

When families move between authority areas - whether temporarily or permanently - the original authority will notify the receiving authority immediately, then follow up the notification in writing. The receiving authority should immediately place the child or young person's name on the local register. Where possible, the original authority should advise how long the child or young person is expected to stay in the area. The authorities should make each other aware when the temporary registration is no longer required and why this is the case, for example because the child or young person has returned to their home address. If the child or young person is temporarily residing in another local authority, arrangements must be agreed for the monitoring/supervision of the child or young person while they are in the area and for the implementation of the Child Protection Plan. Assigning responsibility for monitoring is likely to depend on a number of practical considerations, for example, distance.

Consultation between the two authorities is essential. Where agreement cannot be reached about monitoring arrangements, the matter must be immediately passed to senior managers for resolution. Whatever the difficulties and however these are resolved, the safety of the child is paramount and adequate monitoring arrangements must be in place.

**Please refer to local procedures.**

[Clackmannanshire procedures](#)

[Falkirk Procedures](#)

[Stirling Procedures](#)

## **Core Groups**

A core group is a group of identified individuals, including the Lead Professional, the child or young person and their parents/carers, who have a crucial role to play in implementing and reviewing the Child Protection Plan. The core group is responsible for ensuring that the plan remains focused on achieving better outcomes for the child or young person by reducing the known risks. The initial core group meeting should be held within **15 calendar days** of the initial CPCC.

The functions of a core group include:

- ensuring on-going assessment of the needs of, and risks to, a child or young person who has a Child Protection Plan;
- facilitating the Lead Professional to maintain and update the multi-agency chronology;
- developing, implementing, monitoring and reviewing the Child Protection Plan so that the focus remains on improving outcomes for the child or young person. This will include evaluating the impact of work done and/or changes within the family in order to decide whether risks have increased or decreased.
- maintaining effective communication between all services and agencies involved with the child or young person and parents/carers;
- activating contingency plans promptly when progress is not made or circumstances deteriorate;
- reporting to review CPCC on progress; and
- referring any significant changes in the Child Protection Plan, including non-engagement of the family, to the CPCC chair.

Consideration of the involvement of the child or young person should take cognisance of their age and the emotional impact of attending a meeting to discuss the risks they have been placed at. Children and young people attending must be prepared beforehand to allow them to participate in a meaningful way. It is crucial that their views are obtained, presented and considered during the meeting. This group should provide a less formal way for children, young people, parents and carers to interact with agency and service providers. The core group will report back to the CPCC on progress on the Child Protection Plan.

All relevant agencies and identified core group members have a responsibility to ensure that the Child Protection Plan is progressed as agreed at the case conference. Responsibility for implementing relevant parts of the Plan rests with individual agencies.

A record of each core group meeting should be taken which includes a note of attendance and any apologies. Where apologies have been given the record should include whether a written or verbal update has been provided in relation to their actions as outlined in the Child Protection Plan.

**Please refer to local procedures.**

[Clackmannanshire procedures](#)

[Falkirk Procedures](#)

[Stirling Procedures](#)

## **Criminal Prosecution of Suspected or Reported Perpetrators of Abuse or Neglect**

Decisions regarding any criminal prosecution will be taken by the Procurator Fiscal. When a decision is taken to raise criminal proceedings in which the child or children will be cited as witnesses and asked to give evidence, the relevant social worker will discuss the case with the police. The police will then advise the Procurator Fiscal accordingly, highlighting any concerns about the risk of further abuse of or interference with witnesses in the case and with any other children to whom the suspected or reported perpetrator has access. This information is vital to assist Procurators Fiscal and the court to make informed decisions about bail and any additional special measures, which may be required. The initial CPCC may provide, in some instances, an opportunity for social work services, the Reporter and the Procurator Fiscal to discuss recommendations about bail and any necessary conditions. The Sheriff will decide whether to grant bail or not.



If a suspected or reported perpetrator of abuse is to be prosecuted, child witnesses should always be given information and support to prepare them for the experience of being a witness in court. Local authorities and other agencies must consider a range of issues, including whether the child needs counselling or therapy before criminal proceedings are concluded. The needs of the child take priority and counselling should not be withheld solely on the basis of a forthcoming prosecution. Agencies should consider the potential impact of an unsuccessful prosecution or hostile cross-examination of a child and the implications for the future protection of that child and others. Where counselling does take place, the person(s) offering counselling may be called as witnesses to explain the nature, extent and reasons for the counselling. Welfare agencies should discuss therapeutic intervention with the Procurator Fiscal so that they are aware of the potential impact of such counselling on any criminal proceedings.

Special measures for all child witnesses cited to attend court include some of the following options: having a support person present; screens so that the child cannot see the accused; a CCTV link from within the court building or from a remote site, as appropriate; prior statements treated as evidence in chief (criminal cases only); and evidence taken by a commissioner.

Consideration should be given as to who may act as a support person for the child, particularly in cases where that person may also be called upon as a witness. In all cases, the person citing the witness (e.g. the Procurator Fiscal or defence lawyer) will make an application to the court with whom the final decision on which option is the most appropriate rests. The child's own views should also feed into the decision-making process.

More detailed information about the support available to child witnesses can be found in:

[Vulnerable Witnesses \(Scotland\) Act 2004 Information Guide](#)  
[Scottish Government website – support available to child witnesses](#) (including court familiarisation visits, guidance on identity parades);

## Criminal Injuries Compensation

Children who have suffered significant harm either within or outwith the family as a result of abuse may be eligible for criminal injuries compensation. 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. They should also ensure that applications are progressed timeously.

Applications for a claim 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 as to whether or not the Criminal Injuries Compensation Scheme may apply should be a standing item at all initial and review child protection case conferences (or “Looked After” Reviews if appropriate). It is the responsibility of the chair of the review to ensure that reasons are recorded within the appropriate minutes as to why the decision was reached whether to proceed or not to proceed with an application.

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

## PART 4: CHILD PROTECTION IN SPECIFIC CIRCUMSTANCES

### Indicators of Risk

When making judgements about the risks and needs of a child, there are a range of indicators that should trigger assessment and, where appropriate, action.. Not all the indicators set out here are common; nor should their presence lead to any immediate assumptions about the levels of risk for an individual child. Where identified, though, they should act as a prompt for all staff, whether in an adult or child care setting, to consider how they may impact on a child.

**In the sections below, indicators of potential risk are considered separately but they will often – particularly for children in vulnerable circumstances – occur together.**

Indicators of risk should therefore be considered not in isolation but in relation to all the relevant aspects of a child and family's circumstances for example, a young person involved in offending behaviour is often a young person in need of care and protection. Where there are a number of risk factors in a child's life, practitioners should pay particular attention to the cumulative impact on the child. Where a range of different services is involved, it is particularly important to maintain the focus on the child's needs.

In relation to all the indicators of risk identified below when it is considered that a child or young person may be at risk of significant harm the processes outlined in [Part 3 Identifying and responding to concerns about children](#) should be followed.

### Domestic Abuse

Domestic abuse describes any behaviour that involves exerting control over a partner or ex-partner's life choices and that undermines their personal autonomy. It is an assault on their human rights. Although most victims are women, men can also suffer domestic abuse, and it can occur in same-sex relationships as well as heterosexual ones. Children and young people living with domestic abuse are at increased risk of significant harm, both as a result of witnessing the abuse and being abused themselves. Children can also be affected by abuse even when they are not witnessing it or being subjected to abuse themselves. Domestic abuse can profoundly disrupt a child's environment, undermining their stability and damaging their physical, mental and emotional health.

The impact of domestic abuse on a child will vary, depending on factors including the frequency, severity and length of exposure to the abuse and the ability of others in the household (particularly the non-abusive parent/carer) to provide parenting support under such adverse conditions. If the non-abusive parent/carer is not safe, it is unlikely that the children will be. Indeed, children frequently come to the attention of practitioners when the severity and length of exposure to abuse has compromised the non-abusing parent's/carer's ability to nurture and care for them.

The best way to keep both children and non-abusive parents/carers safe is to focus on early identification, assessment and intervention through skilled and attentive staff in universal services. Domestic abuse is widely under-reported to the police. Given the reticence of victims to come forward, it is crucial that staff are aware of the signs of domestic abuse and routinely make appropriate enquiries.

When undertaking assessment or planning for any child affected by domestic abuse, it is crucial that practitioners recognise that domestic abuse involves both an adult and a child victim. The impact of domestic abuse on a child should be understood as a consequence of the perpetrator choosing to abuse rather than of the non-abusing parent's/carer's failure to protect. Every effort should be made to work with the non-abusing parent/carer to ensure adequate and appropriate support and protection is in place to enable them to make choices that are safe for them and the child. At the same time, staff should be maintaining a focus on the perpetrator and monitoring any risk resulting from ongoing abuse. The ultimate aim should be to support the non-abusing parent/carer in re-establishing a stable and nurturing home for the child; in the meantime, in some instances, protecting the child may mean them having to live apart from the non-abusing parent/carer for a time. In such circumstances, staff should work to ensure as much stability and continuity for the child as possible. Agencies should always work to ensure that they are addressing the protection of both the child and the non-abusing parent/carer.

Protection should be ongoing, and should not cease if and when the abuser and the non-abusing parent/carer separate. Indeed, separation may trigger an escalation of violence, increasing the risk to both the child and their non-abusing parent/carer. One area of critical concern is the child's contact with the perpetrator, which can provide a channel for continuing and even increasing the domestic abuse. Any decisions made in regard to contact by both social work services and/or the civil courts should be based on an assessment of risk to both the non-abusing parent/carer and the child. It is important to note that the Children's Hearing may also make decisions about contact.

### Further Information:

- [National Domestic Abuse Delivery Plan for Children and Young People.](#)
- [Safer Lives: Changed Lives - A Shared Approach to Tackling Violence against Women in Scotland.](#)
- [In Partnership, Challenging Domestic Abuse - Joint Protocol between Association of Chief Police Officers in Scotland \(ACPOS\) and Crown Office and Procurator Fiscal Service.](#)
- [Section 39, Criminal Justice and Licensing \(Scotland\) Act 2010 \(relevant to the offence of stalking\)](#)
- [CAADA-DASH risk assessment](#)

#### Key Messages for Practice

- Domestic abuse can have a profound impact on children, both in the short and long term.
- Staff need to be alert to the indicators, the dynamics and the impacts of domestic abuse.
- Supporting the adult victim of domestic abuse ultimately supports the child.
- Risk of domestic abuse can increase at the point of separation.
- Contact between the perpetrator and the child should be subject to a risk assessment before proceeding.

### Parental Problematic Alcohol & Drug Misuse

All practitioners working together to support families affected by problematic alcohol and/or drug misuse within or across Forth Valley must have a shared understanding of the following key concepts. These concepts underpin our overarching approach to getting it right for families affected by problematic alcohol and/or drug misuse. All interventions must be informed by this approach.

Problematic alcohol and/or drug use is defined as *when the use of drugs or alcohol is having a harmful effect on a person's life, or those around them.* It can also include the unauthorised use of over-the-counter (and sourced via the internet) drugs and/or prescribed medicines; New Psychoactive Substances (NPS, often inappropriately referred to as legal highs).

Over recent years there has been a growing recognition and an improved understanding of the potential impact of problematic alcohol and/or drug use on children and young people's lives. The extent of this impact can be variable and not all children will be adversely affected by parental substance misuse, however it has to be noted that it is not something that is compatible with good parenting. Notwithstanding this, the impact of parental problematic alcohol or drug use can and does have a very detrimental impact on the health and wellbeing of some children. Children can also be at increased risk of experiencing violence and maltreatment when living with problematic parental substance misuse, debt, poverty, crime or exposure to risky situations. Problematic parental alcohol and/or drug use can also result in sustained abuse, neglect, maltreatment, behavioural problems, disruption in primary care giving, social isolation and stigma of children and families. Parents and carers with drug and/or alcohol problems often lack the ability to provide structure or discipline in family life. Poor parenting can impede child development through poor attachment and the long term effects of maltreatment can be complex. The capability of parents/carers to be consistent and emotionally responsive to their children can also be undermined.

It is important that all practitioners working with parents affected by problematic alcohol and/or drug misuse know the potential impact that this has on children, both in terms of the impact of the care environment through direct exposure to alcohol and/or drug use and also the potential practical and emotional challenges presented in terms of the recovery process. Addiction staff need to know when and how to share information to keep children safe and should understand that contribution that they can make to assessing risks and needs. Planning is vital, particularly in the case of unborn children, and will often include input from agencies that do not have a front line child care role.

Substance misuse in many cases coexists with other circumstances such as mental health conditions, and many of those affected experience relationship difficulties which result in domestic abuse or criminality. Therefore, the ongoing Assessment of family circumstances will be a major protective factor and should form part of every client interaction. Crucially, assessment must be considered from the view point of the child in order to understand the potential or actual impact of parental substance misuse on the child's wellbeing and development. During all aspects of continuous assessment staff will require to recognise that their paramount consideration is that of the best interests of the child.

Practitioners must also consider the impact of using multiple substances, for example alcohol and methadone, as this type of drug use impacts negatively on parenting capacity. Across Forth Valley, there has been an increase in individuals abusing more than one substance at a time. This is known as poly drug use. The combined effect of all the substances being used must be assessed when considering an individual's ability to care for their child and parent them effectively.

## **Recovery**

Parents and their children can and do recover from the impact of problematic drug and/or alcohol use with the support of the wider team and family around them. This requires the right interventions at the right time to help families overcome their difficulties and achieve their full potential. It is crucial that services work together to best support individuals and families to build their recovery capital in such a way that they can then develop the skills and resilience that will reduce the likelihood of relapse and enable them to achieve their recovery goals, hopes and aspirations.

[The Forth Valley Getting Our Priorities Right Guidance \(2016\)](#) provides further information to practitioners working with Children and Families affected by substance misuse. It highlights that services need to respond in a co-ordinated way. Intervention should also take account of the wider factors that may impact on a family's ability to manage and parent effectively and should also take into account any strengths / protective factors the family may have.

### **Key Messages for Practice**

- When working with parents/carers with problematic alcohol and/or drug use, practitioners should always consider the possible impact on any dependent children, be alert to their needs and well-being and respond in a coordinated way with other services to any emerging problems.
- Practitioners from all services have a part to play in helping to identify children affected by parental alcohol and/or drug use at an early stage. It is important that practitioners from child and adult services gather basic information about the family to support the assessment of needs and risks in relation to the wellbeing of the family.

- Practitioners should also work together as a team, in partnership with families, to build on identified strengths/protective factors and to reduce adversities/vulnerabilities.
- Always consider the wider factors – the family’s strengths; vulnerabilities; challenges; resilience; ability to recover and the impact on the child.
- Alcohol and/or drug use may co-exist with other issues that can affect a child’s well-being e.g. domestic abuse and mental-ill health; you should know how to recognise and respond to these complex issues.
- A Lead Professional should be involved in case where several services are involved

**Further information:**

- The Road to Recovery: A New Approach to Tackling Scotland’s Drug Problem - <http://www.gov.scot/Resource/Doc/224480/0060586.pdf>
- Changing Scotland’s Relationship with Alcohol: A Framework for Action <http://www.gov.scot/Resource/Doc/224480/0060586.pdf>
- Getting Our Priorities Right - <http://www.gov.scot/Resource/0042/00420685.pdf>

## Disability

The definition of 'disabled children' includes children and young people with a comprehensive range of physical, emotional, developmental, learning, communication and health care needs. Disabled children are defined as a child in need under section 93(4) of the Children (Scotland) Act 1995.

Disabled children are vulnerable to the same types of abuse as their able-bodied peers. Children with behavioural disorders, learning disabilities and/or sensory impairments are particularly at risk. Neglect is the most frequently reported form of abuse, followed by emotional abuse.

Abuse of disabled children is significantly under-reported. Where a child has a disability, the type and, if relevant, the severity of that disability should be recorded, along with the implications for the child's support and communication needs.



Disabled children are more likely to be dependent on support for communication, mobility, manual handling, intimate care, feeding and/or invasive procedures. There may be increased parental stress, multiple carers and care in different settings (including residential); there may also be reluctance among adults, including practitioners, to believe that disabled children are abused. Disabled children are likely to be less able to protect themselves from abuse. Limited mobility can add to their vulnerability. In addition, the network of carers around the child is likely to be larger than for a non-disabled child, which can be a risk factor in itself. While the majority of parents/carers provide the highest standard of care for their child, it must be acknowledged that in some cases they themselves will be perpetrators of abuse.

Children looked after by parents/carers in the community can have complex health care needs which include life-threatening conditions. Caring responsibilities, which may involve complex clinical procedures, can lead to considerable pressure on families. Reliance on physical, mechanical and chemical interventions to manage health and behaviour can leave these children particularly vulnerable to harm. Disabled children's dependence on medication may leave them exposed to further abuse, for example where medication is wrongly - or simply not administered - either deliberately or through lack of knowledge and understanding.

Disabled children are often highly dependent on their carers. They may be less resilient and failure to treat even minor ailments can have serious consequences. Practitioners may have an unrealistic view of parents/carers' ability to cope. Parents/carers may be reluctant to admit that they can't cope. To protect disabled children, assessments must cover the ability and capacity of parents/carers to cope with the demands being placed on them.

When responding to concerns about a disabled child, expertise in child protection and disability should be brought together to ensure the child receives the same standard of service as a non-disabled child. It may be helpful to involve practitioners with experience of working with disabled children, such as speech and language therapists or residential workers. Workers must be sensitive to the particular needs of disabled children during child protection investigations, for example when they need to be examined, give consent or communicate evidence. Where a disabled child is deaf or hard of hearing or has learning disabilities, special attention should be paid to the child's communication support needs, ascertaining the child's perception of events, and understanding their wishes and feelings. Practitioners should be aware of non-verbal communication systems, when they might be useful and how to access them, and should know how to contact suitable interpreters or

facilitators. Assumptions should not be made about the inability of a disabled child to give credible evidence or withstand the rigours of the court process. Each child should be assessed carefully and supported to participate in the process where this is in their best interests.

Practitioners should make contact with key workers as early as possible, for advice on the child's impairment, how it is likely to impact on the investigation and the support needed for the child. Specialist advice should be sought at an early stage. Investigation planning should include:

- providing support to the child, including with communication;
- identifying a suitable location including, where needed, any communication boards/loop system;
- allowing additional time for the investigation, including time to brief the support staff and time for breaks in line with the child's needs.

As disabled children can progress into adult protection, the [Protection of Vulnerable Groups \(Scotland\) Act 2007](#) recognises the vulnerability of disabled adults. Transition to adult services can be a traumatic time for them and their families. Transition plans should reflect the complexity of transition from child to adult services.

Children can also be affected by the disability of those caring for them. Disabled parents/carers/siblings may have additional support needs relating to physical and or sensory impairments, mental illness, learning disabilities, serious or terminal illness, or degenerative conditions. These may impact on the safety and wellbeing of their children, affecting their education, physical and emotional development. A full assessment of parents' needs, and of the support they need in order to fulfil their parenting responsibilities, should be carried out as well as an assessment of the needs of the child. Joint working between specialist disability and child protection services will be needed. (For further information, see the section on mental health.)

**Further Information:**

[Child Protection and Disability Toolkit - WithScotland](#)

### **Key Messages for Practice**

- Systems for collecting information about disabled children must be robust.
- Assessments for disabled children need to include the ability and capacity of parents/carers to cope with their demands.
- When responding to concerns about a disabled child, expertise in child protection and disability should be brought together.
- Practitioners must be sensitive to the particular needs of disabled children during the conduct of child protection investigations.
- Specialist advice should be sought at an early stage to help inform decision making.
- Transition plans should reflect the complexity of transition from child to adult services.

### **Non Engaging Families**

In many cases of child abuse and neglect, this is a clear and deliberate strategy adopted by one or more of the adults with responsibility for the care of a child. It is also the case that the nature of child protection work can result in parents/carers behaving in a negative and hostile way towards practitioners. The terms 'non-engagement' and 'non-compliance' are used to describe a range of deliberate behaviour and attitudes, such as:

- failure to enable necessary contact (for example missing appointments) or refusing to allow access to the child or to the home; [Forth Valley Multi-Agency Unseen Child Guidance](#)
- active non-compliance with the actions set out in the Child's Plan (or Child Protection Plan contained there in);
- disguised non-compliance, where the parent/carer appears to co-operate without actually carrying out actions or enabling them to be effective; and,
- threats of violence or other intimidation towards practitioners.

Consideration needs to be given to determining which family member(s) is or are stopping engagement from taking place and why. For example, it may be the case that one partner is 'silencing' the other and that domestic abuse is a factor. Service users may find it easier to work with some practitioners than others. For example, young parents may agree to work with a health visitor/public health nurse but not a social worker.

When considering non-engagement, practitioners should check that the child protection concerns and necessary actions have been explained clearly, taking into account issues of language, culture and disability, so that parents or carers fully understand the concerns and the impact on themselves and their child.

If there are risk factors associated with the care of children, risk is likely to be increased where any of the responsible adults with caring responsibilities fail to engage or comply with child protection services. Non-engagement and non-compliance, including disguised compliance, should be taken account of in information collection and assessment. Non-engagement and non-compliance may point to a need for compulsory or emergency measures.

There is a risk of 'drift' setting in before non-engagement is identified and action taken. If letters are ignored, or appointments not kept, weeks can pass without practitioner contact with the child. If parents/carers fail to undertake or support necessary actions, this should be monitored and the impact regularly evaluated. Good records must be kept, including contacts and whether they are successful or not, particularly during periods of high risk when children are not in nursery or school, for example, Christmas and summer holidays. It must be clear what action should be taken when contact is not maintained. Where the child is subject to compulsory measures of supervision, the Reporter should be notified if agencies are unable to gain access to the child.

Core groups need to work effectively and collaboratively to deal with and counter non-engagement. Different agencies and practitioners will have different responsibilities. Effective multi-agency approaches provide flexibility so that, for example, responsibility for certain actions can be given to those practitioners or agencies that are most likely to achieve positive engagement. All services should be ready to take a flexible approach.

Given the nature of child protection work, non-engagement can sometimes involve direct hostility and threats or actual violence towards staff. All agencies have protocols to deal with this, including practical measures to promote the safety of staff who have direct contact with families. In addition, staff have the opportunity for debriefing after any incidents.

Families or carers who are directly hostile are very challenging to practitioners. However, services to children should not be withdrawn without putting other protective measures in place. Key safeguards and services should be maintained for children who are at risk of harm.

## Further information

[Forth Valley Multi Agency Working with Resistance Guidance](#)

[Forth Valley Multi Agency Unseen Child Guidance](#)

### Key Messages for Practice

- Specialist advice should be sought when assessing concerns about noncompliance.
- Records should include details about contact, or lack of contact, with a family.
- Where the child is subject to compulsory measures of supervision, the Reporter should be notified if agencies are unable to gain access to the child.
- All agencies have protocols for dealing with threats to staff.
- Services should not be withdrawn unless other protective measures have been put in place for the child

## Children & Young People Experiencing or Affected by Mental Health Problems

To have good mental health, children need love, security and understanding from those who look after them. They therefore rely very much on the adults around them – at home, at school and in the community, and the environment they grow up in will have a big impact on their future mental health.

Social and emotional wellbeing creates the foundations for good general health, educational attainment, prevents behavioural problems and the development of mental health problems. It should be emphasised that all agencies and organisations have a role to play in supporting the emotional health and wellbeing as well as the mental health of children and young people. Ideally services should be on a continuum featuring opportunities for mental health promotion, early intervention and prevention, to supporting, treating and caring for those

children and young people experiencing mental health difficulties of all ranges of complexity and severity. Whilst most young people within Forth Valley grow up with good mental wellbeing, some children experience difficulties and challenges which can have a big impact on them as they grow up. These include

- Illness or disability in the family
- Divorce or separation of parents
- Difficult family relationships
- Having insecure attachments with their parent/carer
- Having a parent or carer who has mental health problems,
- History of offending behaviour or problems with alcohol or drugs
- Financial or housing problems in the family
- Bereavement
- Friendship problems or bullying
- Been the victim of sexual abuse
- Problems with learning or difficulties at school
- Experiencing discrimination because of race, nationality, sexuality or religion

Some parents may lack support when they need it, and find themselves unable to look after their children as they would want to. Others may not be able to cope well enough to keep their children healthy and safe, and neglect or abuse may result. There is also higher incidence of self harm and suicide among young people. Some children and young people may have a genetic disposition towards psychological difficulties or mental illness and when facing challenges in life these can 'trigger' difficulties and lead to serious problems.

For some young people mental ill health will severely affect their day to day functioning and capacity to engage in daily life and this may affect them into adulthood. Some develop difficulties and present with behaviour that challenges families and services including personality disorders. It is important that in all circumstances any assessment and intervention is multi agency, child-centred, developmental and systemic and takes into consideration the family, the wider environmental context and the parents/carers capacity to meet the child or young person's needs working cooperatively with families, building on strengths as well as identifying difficulties.

A key advantage of agencies working together is to ensure children and young people who are experiencing mental health difficulties are not subjected to repeated assessments and support is available for when they move at key transition stages in their lives, for example from primary school to secondary, or at school leaving age.

Child and adolescent mental health services (CAMHS) can offer specialist intervention for young people with mental health disorders as detailed in the NHS Forth Valley Service Information Directory Site (SIDS) <http://www.sid.scot.nhs.uk> (Search under Mental Health - CAMHS - Review Information - Referral Criteria). In these circumstances it would be expected that behaviours would be evident across the home, school and social contexts and have significant impact on children and young people's emotional wellbeing, family relationships and learning; they may also present a risk to themselves or others; and previous interventions and outcomes should be noted if not included in any referral.

Consultation and supervision is available for partner agencies; and the CAMHS team are committed to a programme of training to help build capacity and increasing the confidence of professionals across partner agencies.

In cases of trauma or abuse, therapeutic work is best done when a child/young person has had a period of time (up to six months during which consultation can be provided) to recover from the experiences and is living in a safe and containing environment which will be able to bear the emotional distress that therapy may initially invoke within the child/young person.

It is important that children and young people's mental health is not seen solely as the preserve of CAMHS; the causes of mental ill-health are bound by a range of environmental, social, educational and biological factors. Waiting to access these services should not be a justification for inactivity on the part of other agencies.

#### **Further information**

- [The Mental Health of Children and Young people; A Framework for promotion, Prevention and Care](#)
- [Working with Children and Adults who may be at Risk of Self-harm: Practice Guidance on Information Sharing, Protection and Confidentiality](#)

## Children & Young People Affected by Parental Mental Health Problems

It is not inevitable that living with a parent or carer who experiences mental ill health will have a detrimental impact on a child's development and many adults who experience mental health problems can parent effectively. However, there is evidence to suggest that many families in this situation are more vulnerable.

A number of features can contribute to the risk experienced by a child or young person living with a parent or carer who has mental health problems including that:

- they may be involved in parent's/carer's delusional system or obsessional compulsive behaviour;
- the child may have become the focus for parental aggression or rejection;
- the child may witness disturbing behaviour arising from the mental illness (often with little or no explanation);
- the child may have caring responsibilities which are inappropriate for his/her age
- the parent/carer is unable to anticipate the needs of the child, put the needs of the child before their own or be effective in limit setting
- frequent separations (inpatient) or emotional unavailability (eg. due to medication)
- Children can be placed in physical danger due to poor choices of parents or limited capacity
- Children may be placed in danger from physical, emotional sexual abuse as well as experience non organic failure to thrive from unsafe "environments"
- Can experience differing prognosis due to age of child -better outcomes if late onset

There are also factors which may impact on parenting capacity including:

- maladaptive coping strategies or misuse of alcohol and/or drugs;
- lack of insight into the impact of the illness (on both the parent/carer and child); and
- poor engagement with services or non-compliance with treatment.

This list is not exhaustive and a number of other factors can also impact on these situations, for example, issues impacting on the attachment relationship or domestic abuse.



Parental mental illness requires effective partnership working and, at times, it must be acknowledged that the needs of the child and their parents may conflict. The importance of a holistic perspective on family assessment is fundamental to providing appropriate services to both parents/carers and children in families dealing with mental health problems. However, it must be recognised that this work cannot be limited to specialist services and universal services must also be aware of the potential impact of adult mental illness on children and young people and Practitioners must develop a sound knowledge about, and relationship with, other services which will facilitate joint working and shared case management.

The stigma associated with mental health problems can mean that many families are reluctant to access services because of a fear about what will happen next. Whilst this fear may also be present in other families, many parents/carers with mental health problems are worried that they will be judged because of their problems and this alone will be considered in terms of the care of their children. Therefore, for many, identifying a need for services or support is viewed as a high risk strategy. A good starting point for intervention could focus on improving outcomes for all family members by:

- promoting positive attachments between parent/carers and their children
- building confidence in parenting abilities e.g. accessing parent training
- tackling the isolation often experienced by people living with an enduring mental health problem
- improving children's understanding of their parents' mental illness by providing them with developmentally appropriate factual information
- improving children's resilience

#### **Key Messages for Practice**

- The child's needs should always be considered by services involved with the parent or carer. Where concerns are identified, these should be shared with children's services.
- Joint working across adult and child services is essential to ensuring children are protected and their needs met. Understanding of the differing roles should be promoted locally
- Mental health practitioners have a duty to children affected by parental mental health [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)

## Children & Young People Who Display Harmful or Problematic Sexual Behaviour

Harmful or problematic sexual behaviour in children and young people can be difficult to identify. It is not always easy to distinguish between what is abusive and/or inappropriate and what constitutes normal adolescent experimentation. Determining if child's sexual behaviour is developmentally typical, inappropriate or abusive will be based on an understanding of what constitutes healthy sexual behaviour in childhood as well as issues of informed consent, power imbalance and exploitation.

In managing and reducing risk, the diversity of potential behaviour and motivation for such behaviour must be taken into account. Children and young people display a wide range of sexual behaviour in terms of: the nature of behaviour; degree of force; motivation; level of intent; level of sexual arousal; and age and gender of victims. Children and young people who have displayed harmful or problematic sexual behaviour may themselves have been abused or harmed in some way. Broader developmental issues must also be taken into account, including the age of the young person, their family and background, their intellectual capacities and stage of development. Young people with learning difficulties are a particularly vulnerable and often overlooked group who may need specific types of interventions.

Where abuse of a child or young person is reported to have been carried out by another child or young person, such behaviour should always be treated seriously and be subject to a discussion between relevant agencies that covers both the victim and the perpetrator. In all cases where a child or young person displays problematic sexual behaviour, immediate consideration should be given to whether action needs to be taken under child protection procedures, either in order to protect the victim or to tackle concerns about what has caused the child/young person to behave in such a way.

Identifying children and young people with problem sexual behaviour raises a number of dilemmas and issues for practitioners. When children and young people engage in such behaviour throughout childhood it can be developmentally and psychologically damaging to them as well as to others. They will normally require input from youth justice workers as well as health and education services. Other practitioners may also be involved, for example criminal justice workers (including MAPPA on some occasions). The interface with child protection processes, and occasionally with adult protection, also needs to be considered.

A risk assessment should be carried out to determine whether the child or young person should remain within the family home and, if necessary, to inform the decision as to what might be an appropriate alternative placement. In the event that an alternative placement is needed, residential staff or foster carers need to be fully informed about the harmful or problematic sexual behaviour and a risk management plan drawn up to support the placement. In most instances, a referral should be made to the Children's Reporter so that the need for compulsory measures of supervision can be considered where these are not already in place.

The two key aims of addressing harmful sexual behaviour are **risk management** and **risk reduction**. They will be best achieved when children and young people learn to manage their sexual behaviour within the broader aim of learning to meet their needs in a socially acceptable and personally satisfying way.

**Risk management** covers actions taken to reduce opportunities for the harmful sexual behaviour to occur. A good risk management process should identify those children and young people who are most likely to commit further sexually abusive behaviour and who therefore need high levels of supervision. It should provide a robust mechanism through which concerns about a young person's harmful behaviour can be shared with relevant agencies so that appropriate risk management measures can be taken.

To manage risk effectively it is essential that:

- risk management is embedded in the systems around the child and promoted by those who supervise and monitor the child on a daily basis; and
- safety plans are drawn up in the relevant environments (for example, home, schools, communities and residential units).

**Risk reduction** is a planned programme of work aimed at helping the child or young person develop appropriate skills and insights to reduce their need to engage in harmful sexual behaviour. In so doing, attention will naturally be paid to improving the child/young person's psychological wellbeing. This will mean:

- ensuring that the assessment process includes means of identifying the most relevant areas for intervention with each child/young person;
- viewing individual intervention as part of a systemic approach rather than as an isolated consideration;
- designing interventions that support long-term maintenance of therapeutic change by empowering the child and
- regularly evaluating the effectiveness of interventions.

#### **Key Messages for Practice**

- In all cases where a child or young person presents problem sexual behaviour, immediate consideration should be given to whether action should be taken under child protection procedures, either to protect the victim or because there is concern about what has caused the child/young person to behave this way.
- In most instances, a referral should be made to the Children's Reporter to consider whether Compulsory Measures of Supervision are required.

### **Female Genital Mutilation**

Female genital mutilation is a culture-specific abusive practice affecting some communities. It should always trigger child protection concerns. The legal definition of female genital mutilation is 'to excise, infibulate or otherwise mutilate the whole or any part of the labia majora, labia minora, prepuce of the clitoris, clitoris or vagina'. It includes all procedures which involve the total or partial removal of the external female genital organs for non-medical reasons. There are four types of female genital mutilation ranging from a symbolic jab to the vagina to the partial or total removal of the external female genitalia. The Prohibition of Female Genital Mutilation (Scotland) Act 2005 makes it illegal to perform or arrange to have female genital mutilation carried out in Scotland or abroad. There are also several options that should be considered to protect children and prevent female genital mutilation occurring including Child Protection Orders.

The procedure is performed at various ages including babies and adolescents, but more commonly carried out on children aged between four and ten years. It is a deeply rooted cultural practice in certain African, Asian and Middle Eastern communities. Justifications for female genital mutilation may include:

- tradition;
- family honour;
- religion;
- increased male sexual pleasure;
- hygiene; and
- fear of exclusion from communities.

A range of health problems, both immediate and long-term, are associated with the procedure, and in some cases can lead to death. Short-term effects can include haemorrhage and pain, shock and infection. Longer-term effects include bladder problems, menstrual and sexual difficulties and problems giving birth, and consideration should be given to this during pregnancy through anti-natal appointments. The emotional effects of female genital mutilation may include flashbacks, insomnia, anger, difficulties in adolescence, panic attacks and anxiety. In Western cultures, the young person may also be disturbed by Western opinions of a practice which they perceive as an intrinsic part of being female.

Female genital mutilation is usually done for strong cultural reasons and this must always be kept in mind, however, cultural considerations and sensitivities should not override the professional need to take action to protect a child. Action should be taken in close collaboration with other agencies. Care should be exercised in the use of interpreters and lay advisors from the same local community as the victim. Where possible, workers with knowledge of the culture involved may be able to assist but the welfare of the child must always be paramount. Female genital mutilation should always be seen as a cause of significant harm and normal child protection procedures should be invoked. Some distinctive factors will need consideration:

- female genital mutilation is usually a single event of physical abuse (albeit with very severe physical and mental consequences);
- there is a risk that a child or young person is likely to be sent abroad to have the procedure performed;

- where a child or young person within a family has been subjected to female genital mutilation, consideration needs to be given to other female siblings or close relatives who may also be at risk;
- a planning meeting should be arranged if the above conditions are met, where appropriate specialist health expertise should be sought;
- where other child protection concerns are present they should be part of the risk assessment process.

They may include factors such as trafficking or forced marriage. Legal advice should be obtained where appropriate; and appropriate interpreters who are totally independent of the child or young person's family should be used.

A key role for all agencies is to ensure general public education and training for professionals. This is essential to reduce the risk or prevent FGM taking place.

### **Signs and Indicators**

Professionals need to be aware of the possibility of FGM. The following are potential signs that FGM may take place. None of the following indicators automatically signify risk in isolation, however professionals should be vigilant at all times.

- Any female child born to a woman who has been subjected to FGM must be considered to be at risk, as must female siblings and children in the extended family.
- The family comes from a community that is known to practise FGM. e.g. Somalia, Sudan and other African countries. It may be possible that they will practice FGM if a female family elder is present in the family network.
- Parents state that they or a relative will take the child out of the country for a prolonged period.
- A child may talk about a long holiday to her country of origin or another country where the practice is prevalent, including African countries and the Middle East.
- The child may confide to a professional that she is to have a 'special procedure' or to attend a special occasion.
- Reference to FGM/Circumcision is heard in conversation, for example a child may request help from a teacher or another adult.

Indications that FGM may have already taken place include:

- A child may spend long periods of time away from the classroom during the day with bladder or menstrual problems.
- There may be prolonged absences from school.
- A prolonged absence from school with noticeable behaviour changes on the girl's return could be an indication that a girl has recently undergone FGM.
- At antenatal booking the holistic assessment may identify women who have undergone FGM. Midwives and Obstetricians should then plan appropriate care for pregnancy and delivery.

#### Further information

- [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005.](#)
- [UNICEF website for female genital mutilation](#)
- [Multi Agency Statutory Guidance on Female Genital Mutilation](#)
- [RCPCH Guidance](#)

#### Key Messages for Practice

Female genital mutilation should always be seen as a cause of significant harm and normal child protection procedures should be invoked.

Where a child or young person within a family has already been subjected to female genital mutilation, consideration must be given to other female siblings or close relatives who may also be at risk.

FGM places a child at risk of significant harm and will be investigated under Child Protection procedures

### Honour-Based Violence & Forced Marriage

**Honour-based violence** is a spectrum of criminal conduct with threats and abuse at one end and honour killing at the other. Such violence can occur when perpetrators believe that a relative/community member, who may be a child, has shamed the family and/or the community by breaking their honour code. The punishment may include assault, abduction, confinement, threats and murder. The type of incidents that constitute a perceived transgression include:

- perceived inappropriate make-up or dress;
- having a boyfriend/girlfriend;
- forming an inter-faith relationship;
- kissing or intimacy in a public place;
- pregnancy outside marriage; and
- rejecting a forced marriage.

A **forced marriage** is defined as a marriage conducted without the full and free consent of both parties and where duress is a factor. Duress can include physical, psychological, financial, sexual and emotional pressure. A clear distinction must be made between a forced marriage and an arranged marriage. An arranged marriage is one in which the families of both spouses are primarily responsible for choosing a marriage partner for their child or relative, but the final decision as to whether or not to accept the arrangement lies with the potential spouses. Both spouses give their full and free consent. The tradition of arranged marriage has operated successfully within many communities for generations.

In Scotland, a couple cannot be legally married unless both parties are at least 16 on the day of the wedding and are capable of understanding the nature of a marriage ceremony and of consenting to the marriage. Parental consent is not required.

The consequences of forced marriage can be devastating to the whole family, but especially to the young people affected. They may become estranged from their families and wider communities, lose out on educational opportunities or suffer domestic abuse. Rates of suicide and self-harm within forced marriages are high.

## **Potential indicators of honour-based violence and forced marriage**

### **Education**

- Absence and persistent absence from education.
- Request for extended leave of absence and failure to return from visits to country of origin.
- Decline in behaviour, engagement, performance or punctuality.
- Being withdrawn from school by those with parental responsibility.
- Being prevented from attending extra-curricular activities.
- Being prevented from going on to further/higher education.



## **Health**

- Self-harm.
- Attempted suicide.
- Depression.
- Eating disorders.
- Accompanied to doctors or clinics and prevented from speaking to health practitioner in confidence.
- Female genital mutilation.

## **Police**

- Reports of domestic abuse, harassment or breaches of the peace at the family home.
- Threats to kill and attempts to kill or harm.
- Truancy or persistent absence from school.

Cases of honour-based violence/forced marriage can involve complex and sensitive issues and care must be taken to make sure that interventions do not worsen the situation. For example, mediation and involving the family can increase the risks to a child or young person and should not be undertaken as a response to forced marriage or honour-based violence. Efforts should be made to ensure that families are not alerted to a concern that may result in them removing the child or young person from the country or placing them in further danger.

Concerns may be expressed by a child or young person themselves about going overseas. They may have been told that the purpose is to visit relatives or attend a wedding. On arrival, their documents, passports, money and mobile phones are often taken away from them. These concerns should be taken seriously, although practitioners must also be careful to avoid making assumptions. Such cases may initially be reported to the joint Home Office/Foreign and Commonwealth Office Forced Marriage Unit. There are also several options that should be considered to protect children including Child Protection Orders.

As with all cases of forced marriage, confidentiality and discretion are vitally important. It is not advisable to immediately contact an overseas organisation to make enquiries. If a family becomes aware that enquiries are being made, they may move the child or young person to another location or expedite the forced marriage.

When a child or young person has already been forced to marry, they will sometimes approach children's social work services or the police because they are concerned that they may need to act as a sponsor for their spouse's immigration to the UK. Practitioners should reassure the child or young person that they cannot be required to act as a sponsor until they are 21. Confronting the family may be extremely risky for the child or young person and result in their being put under increased pressure to support the visa application. These risks need to be discussed with the child or young person.

Cases of forced marriage may initially be reported to police or social work services as cases of domestic abuse. Spouses forced into marriage may suffer domestic abuse but feel unable to leave due to a lack of family support, economic pressures and other social circumstances. In some cases, they may fear having their own children taken away from them. In all cases, the social worker should discuss the range of options available to the child or young person and the possible consequences. A spouse who is the victim of a forced marriage can initiate nullity or divorce proceedings to end the marriage, but should be made aware that a religious divorce will not end the marriage under UK law. In all cases, the social worker should discuss the range of options available to the child or the young person including additional specialist support.

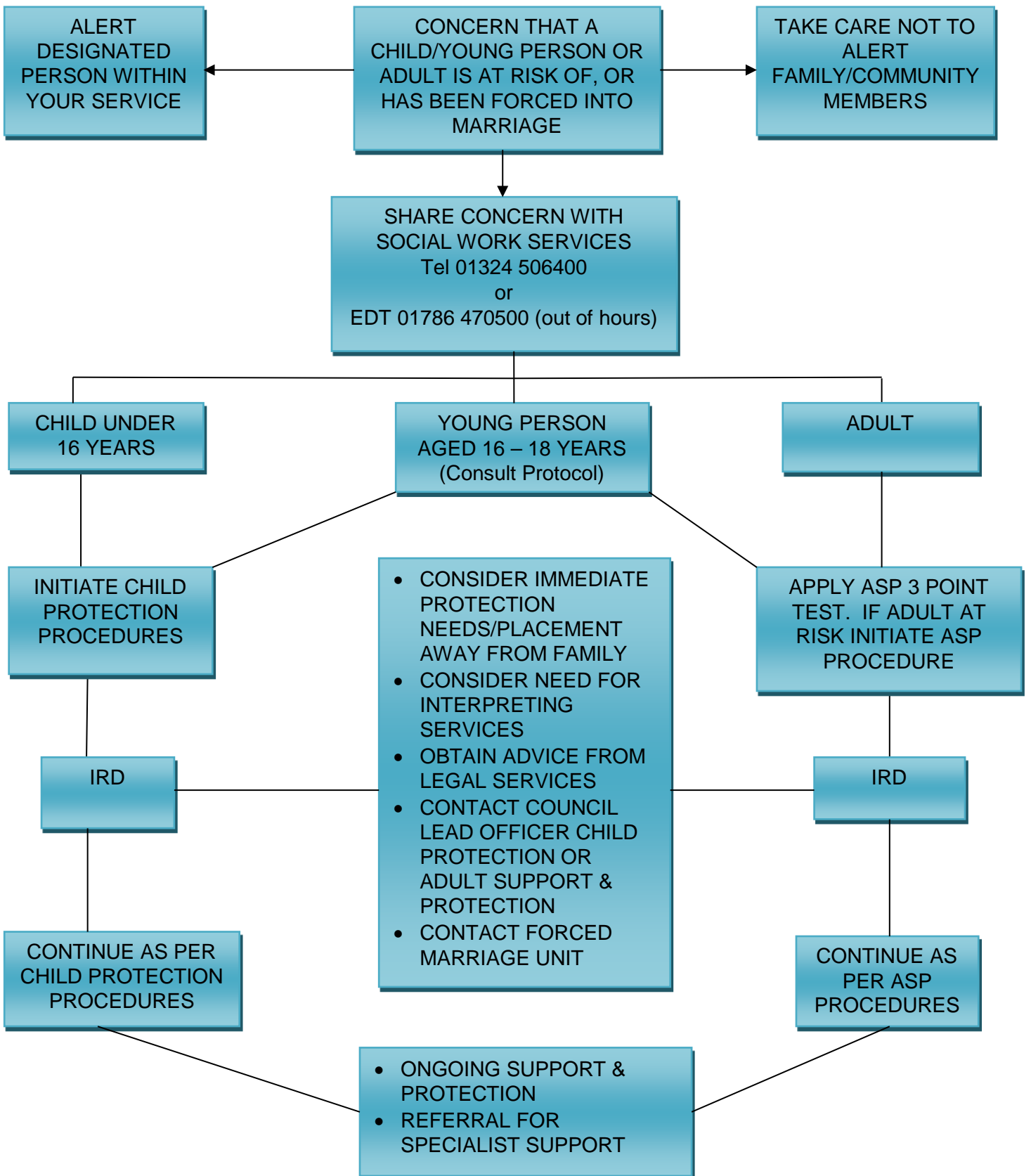
#### **Further information**

- [Safer Lives: Changed Lives: A shared approach to tackling violence against women in Scotland.](#)
- [Forced Marriage etc. \(Protection and Jurisdiction\) \(Scotland\) Act 2011:](#)
- [Forced Marriage Statutory Guidance, Scottish Government in November 2011:](#)
- [Responding to Forced Marriage, multi-agency practice guidelines 2011:](#)

#### **Key messages for practice**

- Cases of honour-based violence/forced marriage can involve complex and sensitive issues and care must be taken to ensure that interventions do not place the child or young person in further danger
- Concerns about a young person being forced to go overseas in cases of honour-based violence or forced marriage may initially be reported to the joint Home Office/Foreign and Commonwealth Office Forced Marriage Unit

## FLOWCHART PROCESS



## Fabricated or Induced Illness

Fabricated or induced illness in children is not a common form of child abuse, but practitioners should nevertheless be able to understand its significance and the potential impact on the child.

Although it can affect children of any age, fabricated and induced illness is most commonly identified in younger children.

Where there are concerns about the fabrication or induction of illness in a child, practitioners must work together considering all the available evidence, in order to reach an understanding of the reasons for the child's signs and symptoms of illnesses, recognising that in the first instance, a child's medical history and explanation of signs and symptoms will likely be reported by the parent or carer under suspicion. A careful medical evaluation is always required to consider a range of possible diagnoses and a range of practitioners and disciplines will be required to assess and evaluate the child's needs and family history. Recording clearly what has been reported by a parent/carer, reported by the child or observed by a practitioner can make an important contribution for assessment. For example, whether a child's signs and symptoms are recognised in a nursery, school or hospital setting or only when reported by the parent/carer.

The use of a multi-agency chronology is recognised as a key tool in the diagnosis of Fabricated or Induced Illness ([\*Fabricated or Induced Illness by Carers: A Practical Guide for Paediatricians 2009\*](#))

### **There are three main ways in which a parent/carer can fabricate or induce illness in a child**

- Fabrication of signs and symptoms, including fabricating the child's past medical history
  - Fabrication of signs and symptoms and falsification of hospital charts, records and specimens of bodily fluids. This may include the falsification of letters and documents
- Induction of illness by a variety of means

Where there are concerns for children who are suffering or at risk of suffering significant harm, joint working is essential both to protect the child and where necessary take action against the perpetrator. CAMHS may support and advise on the effects on the child and consider whether the parent/carer suffers from an underlying disorder.

**All agencies and practitioners should:**

- Understand many of the families in which a child has had illness fabricated or induced have experienced a number of stress factors in their lives. Providing services and support to these children and families may strengthen the capacity of parents to respond to the needs of these children before they reach the point where their reaction to their difficulties is to fabricate or induce illness.
- Be alert to potential indicators of illness being fabricated or induced in a child.
- Be alert to the risk of harm that individual abusers or potential abusers, may pose to children in whom illness is being fabricated or induced.
- Share and help to analyse information so that an informed assessment can be made of the child's needs and circumstances.
- Contribute to whatever actions (including the cessation of unnecessary medical tests and treatments) and services are required to safeguard and promote the child's welfare, regularly review the outcomes for the child against any specific plan.
- Work co-operatively with parents/carers unless to do so would place the child at increased risk of harm
- Assist in providing relevant evidence in any criminal or civil proceedings should this course of action be deemed necessary.
- Recognise the behaviours parents or carers are likely to demonstrate where a possible fabricated or induced illness situation has been identified.

**For example:-**

1. Deliberately inducing symptoms in children by administering medication or other substances, by means of intentional airways obstruction or by interfering with the child's body so as to cause physical signs.
2. Interfering with treatments by over dosing with medication, not administering prescribed medication or interfering with medical equipment such as infusion lines.

3. Claiming the child has symptoms which are unverifiable unless observed directly, such as pain, frequency of passing urine, vomiting or fits. These claims result in unnecessary investigations and treatments which may cause secondary physical problems.
4. Exaggerating symptoms which are unverifiable unless observed directly, causing professionals to undertake investigations and treatments which may be invasive, are unnecessary and therefore are harmful and possibly dangerous.
5. Obtaining specialist treatments or equipment for children who do not require them.
6. Alleging psychological illness in a child.

The majority of cases of fabricated or induced illness in children are confirmed in a hospital setting. The first task of a Paediatrician is to find out whether a child's illness and individual symptoms and signs can be accounted for by natural causes. If not the possibility that the illness has been fabricated or induced must be considered.

Police must investigate a possible crime.

Social workers will co-ordinate the assessment of concerns about the child's welfare or the risk of harm and support to parents/carers during the assessment

Co-ordinated planning and assessment are essential in the investigation of fabricated or induced illness. Some methods, such as the use of covert video surveillance, should be discussed and agreed by all services involved, in line with RIPSAs legislation. Reference will be made to each agency policies and procedures in covert surveillance prior to the application which would be generated through Police Scotland.

Fabrication of illness may not necessarily result in the child experiencing physical harm, however there may still be concern about them suffering emotional harm and a thorough assessment of the child's needs should be carried out, whether in a hospital or community setting.

### Further information

- [Safeguarding Children in Whom Illness is Fabricated or Induced - Supplementary Guidance to Working Together to Safeguard Children 2008](#)
- [Fabricated or Induced Illness by Carers: A Practical Guide for Paediatricians 2009](#)

#### **Key Message for Practice:**

- A careful medical evaluation should consider all possible diagnoses. A range of practitioners and disciplines should be involved in assessing and evaluating the child's needs and the family's history.
- All agencies and practitioners should be alert to potential indicators of illness being fabricated or induced in a child and to the risk of harm posed to children.
- Co-ordinated planning and assessment is essential in the investigation of fabricated or induced illness. Methods such as the use of covert video surveillance should be discussed and agreed by all services involved

### Sudden Unexpected Death in Infants and Children

Only a small number of children die during infancy in Scotland. While the majority of such deaths are as a result of natural causes, physical defects or accidents, a small proportion are caused by neglect, violence, malicious administration of substances or by the careless use of drugs.

One of the implications of Section 2 of the [Human Rights Act 1998](#) (Article 2 of the European Convention on Human Rights) is that public authorities have a responsibility to investigate the cause of a suspicious or unlawful death. This will help to support the grieving parents and relatives of the child and it will also enable medical services to understand the cause of death and, if necessary, formulate interventions to prevent future deaths.

There are occasions where the cause of death cannot be established. In such cases pathologists may classify the death as Unascertained, pending investigations or as a Sudden Unexplained Death in Infancy (SUDI). Alternatively, they may choose to record the cause of death as Sudden Infant Death Syndrome (by definition a death due to natural causes which have not been determined).

The six guiding principles that underpin the work of practitioners dealing with any infant or child death investigations are:

- sensitivity;
- open mind/balanced approach;
- appropriate response to the circumstances;
- an inter-agency response;
- sharing of information; and
- preservation of evidence.

When the death of a child is reported to the police, a senior investigating officer who has been trained to investigate child deaths should always be appointed to oversee the investigation, whether or not there are any obvious suspicious circumstances.

It is important that the police and hospital/medical staff establish a collaborative approach to any such investigation.

In cases where the child and their family were either not resident in or had recently moved to the area where the death occurred, the Senior Investigating Officer will ensure that information is sought from local policing divisions/police forces and partner agencies in any area where the child is known to have recently resided.

### **Further information**

[SUDI Scotland Toolkit](#)

#### **Key Messages for Practice**

- The police have a key role in the investigation of infant and child deaths. Their prime responsibility is to the child, as well as to existing siblings and any children who may be born into the family in future.

#### **Harm outside the Home or in Specific**

- Police and hospital/medical staff should ensure that all investigations are collaborative



## Harm Outside of the Home or in Specific Circumstances

In relation to all the areas discussed below when it is considered that a child or young person may be at risk of significant harm the processes outlined in [Part 3 Identifying and responding to concerns about children](#) should be followed.

### Complex Child Abuse Investigations: Inter-Agency Considerations

Each investigation of complex abuse will be different, depending on the characteristics of the situation, its scale and complexity. Although complex abuse in residential settings has been widely reported in recent years, complex abuse can occur within family networks, day care and other provision such as youth services, sports clubs and voluntary groups, and via the internet. Complex abuse investigations require thorough planning, effective inter-agency working and attention to the welfare needs of both child victims and adult survivors.

The investigation of complex child abuse may require specialist skills. Investigating team members need expertise in conducting investigations, child protection processes and children's welfare, and they should be committed to working closely together. It may be that due to the nature and scale of the investigation the local police Division would seek assistance from the police National Child Abuse Investigation Unit (NCAIU) who have an National investigation remit. It may also be necessary to involve agencies which are trusted by the child or other witnesses and to obtain specialist advice and support from agencies with particular knowledge of the issues.

### Ritual Abuse

Ritual abuse can be defined as organised sexual, physical, psychological abuse, which can be systematic and sustained over a long period of time. It involves the use of rituals, which may or may not be underpinned by a belief system, and often involves more than one abuser. Ritual abuse usually starts in early childhood and uses patterns of learning and development to sustain the abuse and silence the abused. The abusers concerned may be acting in concert or using an institutional framework or position of authority to abuse children. Ritual abuse may occur within a family or community, or within institutions such as residential homes and schools. Such abuse is profoundly traumatic for the children involved.

Ritual abuse can also include unusual or ritualised behaviour by organised groups, sometimes associated with particular belief systems or linked to a belief in spiritual possession.

### **Abuse by organised networks or multiple abusers**

Several high profile cases - including Cleveland (1987) and Orkney (1991) - and investigations within residential schools and care homes have highlighted the complexities involved in investigating alleged organised abuse and supporting children. Complex cases in which a number of children are abused by the same perpetrator or multiple perpetrators may involve networks based on family or community links. Abuse can involve groups of adults within a family or a group of families, friends, neighbours and/or other social networks who act together to abuse children either 'on- or offline'.

### **Abduction**

Child abduction may involve internal or external child trafficking and may happen for a number of reasons. Children cannot consent to abduction or trafficking. For further information, see the section on [Child Trafficking](#).

### **Institutional setting**

Abuse can involve children in an institutional setting (for example, youth organisations, educational establishments and residential homes) or looked-after children living away from home being abused by one or more perpetrators, including other young people.

### **Child Sexual Exploitation**

In some cases, children may be recruited or abducted for commercial sexual exploitation.

In all of these contexts, where a single complaint about possible abuse is made by, or on behalf of, a child, agencies should consider the possibility that the investigation may reveal information about other children currently, or formerly, living within the same household, community or elsewhere. Allegations of organised abuse are also often made historically.

Disclosures of abuse may come from adult survivors of childhood sexual abuse. In these cases, it is important that links are made with the national strategy for adult survivors of childhood sexual abuse. Children surviving organised abuse may fear revealing their experiences due to:

- fear of pornography, photographs and digital images being released;
- threats of harm to other children;
- belief that they are complicit in the abuse;
- belief in the rituals used to silence them;

- fear and distrust of police and social workers;
- fear of their potential involvement in criminal activity; and
- belief that their abusers are all-powerful and will punish them for disclosure.

In a number of cases, third sector organisations as well as statutory agencies will be working with, or have knowledge of, relevant children and families.

### **Planning Considerations**

Some child protection cases are particularly complex because they can uncover, or be shown to be linked with, other cases of alleged abuse. It is not unusual for such complex investigations to extend beyond the boundaries of individual services. Detailed planning at strategic level is critical to ensure a consistency of approach with clear areas of accountability and responsibility determined from the outset. Chief Officers should be alerted in such circumstances, including where the concerns involve a child or children outwith the area. Senior managers from social work services and the police will ensure that arrangements for the joint investigation of linked cases are in place, so that children and adults are adequately protected.

The planning of complex investigations needs to be undertaken at both strategic and operational level. The tasks and functions of a strategic management group will vary from case to case but should normally include the following key functions:

- to establish the terms of reference of the investigation;
- to take ownership of the strategic leadership of the investigation;
- to agree the staffing of the investigation; and
- to agree protocols where necessary.

Police and social work services will agree arrangements for convening planning meetings, setting up systems for sharing and updating information about the investigations progress and co-ordinating support. All relevant agencies and services will be involved in these discussions. Such cases require early involvement of the Procurator Fiscal and the Children's Reporter. Police and social work services will agree a strategy for communicating and liaising with the media and the public. If a large number of families, parents and carers are involved, the local authority will make special arrangements to keep them informed of events and plans to avoid the spread of unnecessary rumour and alarm.

Parents/carers are usually entitled to the fullest possible information. In these circumstances - particularly where it may be unclear how many families are involved - decisions regarding information-sharing will be particularly complex. Agencies may need to restrict information provided to families and the public to avoid prejudicing criminal enquiries; this should be considered in the planning process. Parental involvement may need to be limited in order to safeguard the child and the reasons for this should be recorded.

The investigation of complex child abuse may require specialist skills. Investigating team members need expertise in conducting investigations, child protection processes and children's welfare, and they should be committed to working closely together. It may be necessary to involve agencies which are trusted by the child or other witnesses and to obtain specialist advice and support from agencies with particular knowledge of the issues. When cases involve several children and adults in different households, it will be in the interests of the criminal investigation to prevent suspects from communicating with each other and destroying evidence. This may mean co-ordinating investigations, interviews and other assessments. Action may need to be taken at a time of day when a family is more likely to be at home, such as early morning or evening, but agencies should avoid unnecessary disruption.

It is good practice for the lead agencies to establish links with neighbouring authorities and agencies to ensure access to necessary resources - including skilled staff and specific facilities such as audio-visual studios - when dealing with complex multiple or organised abuse cases. Any arrangement will identify the roles and responsibilities of different authorities and agencies. It should be borne in mind that where a child has been involved in pornography and constantly filmed or become accustomed to their image being manipulated, recording of interviews may be particularly alarming.

For further information on supporting child witnesses, see the section on [Criminal prosecutions](#).

### **Further information**

[The Historical Abuse Systematic Review on Residential Schools and Children Homes in Scotland 1950-1995](#) provides an overview of children's experiences of organised abuse in care.

[Survivor Scotland](#) is a Scottish Government-run website for victims of childhood sexual abuse.

[Safeguarding Children from Abuse Linked to a Belief in Spirit Possession](#) provides more detail regarding the circumstances around child victims of spirit possession accusations.

[Scottish Child Abuse Inquiry https://www.childabuseinquiry.scot/](https://www.childabuseinquiry.scot/) provides information about the current Scottish inquiry looking at the abuse of children in care.

## Child Trafficking

### What is Child Trafficking?

**Child Trafficking** is the term given to the movement of any child or young person up to the age of eighteen, into and within a country with the intent to exploit them generally, but not exclusively, for financial gain. It is a serious, organised crime and is usually linked to prostitution rings and money laundering activities.

Child Trafficking typically exposes children and young people to continuous and severe risk of significant harm. It also involves the recruitment, transportation, transfer, harbouring and/or receipt of a child or young person for purposes of exploitation. This definition holds whether or not there has been any coercion or deception, as children and young people are not considered capable of giving informed consent to such activity. It applies to activity within a country as well as between countries. It should also be noted that the Palermo Protocol broadens the scope of a child and young person to under 18.

### Why are Children trafficked?

The majority of children and young people who arrive in Scotland in this way have been falsely promised a good job or for education opportunities; sometimes their parents and/or carers have been persuaded to entrust them to others for a better quality of life. The reality is that they are trafficked for many reasons, including:-

- Sexual exploitation;
- Forced labour, such as agricultural work, fishing, sweatshop, restaurant and other catering work;
- Domestic work;
- Drug trafficking/cultivation - drug mules, drug dealing or decoys for adult drug traffickers;
- Petty criminal activity - begging, pick pocketing;
- Benefit fraud;

- Forced marriages;
- Illegal inter-country adoption; and
- Other criminal activities

### **What are the signs of Child Trafficking?**

Practitioners need to be able to recognise when children and young people have been trafficked. There are some indicators which may suggest that a child or young person have been trafficked into or within the UK and may conceivably be under control of the trafficker or receiving adults.

There are no validated risk assessment tools that can predict the risk of trafficking or definitively identify those who have been trafficked. While the presence of any of the following factors does not provide definitive evidence, they should raise suspicion about the possibility of trafficking. These can include circumstances such as:-

- Child or young person has entered the country illegally;
- Child or young person has no passport or other means of identification;
- Child or young person possesses money and goods not able to account for;
- Child or young person does not appear to have money but has a mobile phone;
- Child or young person is unable to confirm name and address of person meeting them on arrival;
- Child or young person is accompanied by an adult who insists on staying with the child or young person at all times;
- Child or young person has prepared a story very similar to that given by other children and young people;
- Child or young person appears malnourished.

### **What other things do you need to consider?**

Tackling child trafficking requires a multi-agency response at all levels. All practitioners must be aware of the issues pertaining to child trafficking and of the potential indicators of concern. There are two distinctive issues related to child trafficking that make handling more complex than in many other child protection cases: identification; and wider legal concerns.

## **Identification**

Firstly, child trafficking can be difficult to identify. By its very nature, the activity is hidden from view, so practitioners need to be sensitive to the indicators of trafficking when investigating concerns about particular children and young people. There are no validated risk assessment tools that can predict the risk of trafficking or definitively identify those who have been trafficked. However, an indicator matrix has been developed which sets out a list of factors often associated with children who have been trafficked or who are at risk. While the presence of any factor does not provide definitive evidence, the indicators do point to the possibility of trafficking, particularly when more than one is present at the same time. The indicators may apply to UK nationals and/or migrant children and young people and to both boys and girls. Practitioners should keep them in mind when working with children and young people and making an initial assessment. The indicators do not replace child protection investigations and the presence, or otherwise, of trafficking suspicions should not preclude the standard child protection procedure being implemented.

## **Legal Issues**

Secondly, child trafficking raises important legal issues that require the involvement of specific agencies within the UK. As a signatory to The Council of Europe Convention on Action Against Trafficking in Human Beings, the UK has a responsibility to implement a specific mechanism for identifying and recording cases of child trafficking.

This formal procedure, known as the National Referral Mechanism and Child Trafficking Referral Form, became operational on 1 April 2009. This is further supported by the Child Trafficking Assessment Form and Guidance for Completion.

From that date, new arrangements came into force to allow all cases of human trafficking to be referred by frontline services/agencies for assessment by designated competent authorities. In the UK the competent authorities are the United Kingdom Human Trafficking Centre (UKHTC) and a linked authority within the UK Border Agency that handles cases of immigration and asylum.

In addition, in July 2011 the UK Government opted into the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (Directive 2011/36/EU). This Directive takes a victim centred-approach and places legal obligations on the Scottish Government to implement the Directive, requiring them to take steps to secure more

rigorous prosecution of offenders, provide assistance and support for victims, appoint a guardian for child victims of trafficking in some instances, secure victims' rights in criminal proceedings, and take steps to prevent trafficking. Scottish public authorities also have a responsibility for ensuring that the Directive is complied with in practice. The Directive has important implications for the identification and recording of suspected trafficking victims.

In cases where a child may have been trafficked, their carer may be involved in the trafficking or exploitation. Seeking their consent could put the child at further risk or lead to their being moved elsewhere. Unless there is clear evidence that seeking consent would in no way harm the child, referring agencies should not seek the carer's consent for children under 16. For children aged 16-17, consent would not be sought from parents.

### **What to do if you believe that a child may have been trafficked?**

It is essential that practitioners take timely and decisive action where child trafficking is suspected because of the high risk of the child or young person being moved. Action should not be postponed until a child or young person realises, agrees or divulges that they have been trafficked. Often, children and young people are threatened with punishment if they speak. Also they may not be aware that they are victims of child trafficking.

Any practitioner who believes that a child or young person they are in contact with is or may have been trafficked they should, in the first instance, contact the Police Scotland Public Protection Unit by calling 101, or in an emergency 999. If a situation occurs out of hours the Police Incident Officer (PIO) for Forth valley Division should be contacted on 101.

### **Further information**

- [Safeguarding Children in Scotland Who May Have Been Trafficked.\[Scottish Government, 2009\]](#)
- [Child Trafficking Referral Form](#)
- [Referral Form Guidance](#)
- [Child Trafficking Assessment](#)
- [The NSPCC National Child Trafficking Advice and Information Line \(CTAIL\)](#)
- [The Scottish Guardianship Service](#)
- [Forth Valley Human Trafficking Protocol](#)



### **Key Messages for Practice**

It is essential to take timely and decisive action where child trafficking is suspected because of the high risk of the child being moved.

The UK has a responsibility to implement a specific mechanism for identifying and recording cases of child trafficking known as the [National Referral Mechanism](#)

### **Child Sexual Exploitation**

Child Sexual Exploitation is a form of child sexual abuse in which a person(s), of any age takes advantage of a power imbalance to force or entice a child into engaging in sexual activity **in return for something** received by the child and/or those perpetrating or facilitating the abuse. As with other forms of child sexual abuse, the presence of perceived consent does not undermine the abusive nature of the act.

As noted in the definition above, Child Sexual Exploitation is a form of child sexual abuse. Child sexual abuse encompasses 'any act that involves the child in any activity for the sexual gratification of another'. Child Sexual Exploitation clearly falls within this, and like any other form of sexual abuse can include both contact and non-contact sexual activity, in person or via virtual means.

Also like other forms of sexual abuse, Child Sexual Exploitation:

Is typified by some form of power imbalance in favour of those perpetrating the abuse;

- Can involve coerced and/or enticement based methods of compliance
- Can still be abuse even if it is claimed the child consented or assented - where the age of the child means they cannot legally give consent or the circumstances mean that agreement is not freely given.

The key factor that distinguishes cases of Child Sexual Exploitation from other forms of sexual abuse is the **additional requirement for some form of exchange**; the fact that the child and/or someone else receive something in return for the sexual activity:

- Where the gain is on the part of the child, this can take the form of tangible or intangible rewards (for example: money, drugs, alcohol, status, protection or perceived receipt of love or affection). Fear of what might happen if they do not comply can also be a significant influencing factor; in such situations the 'gain' for the child could be prevention of something negative, for example a child who engages in sexual activity in order to avoid harm to other friends or family.
- Where the gain is solely on the part of the perpetrator/facilitator, it must be something more than sexual gratification to fall within the sub-category of Child Sexual Exploitation. This could be money, other financial advantage (reduced cost drugs/alcohol or discharge of a debt for example), status or power.

While few would dispute the abusive nature of the situation where it is the perpetrator who is organising or benefitting from the sexual exploitation of a child, experience shows that we can struggle to identify the abuse when the child is the one receiving something from the exchange. This is particularly true where they are the one initiating the exchange. However it is critical to remember that the receipt of something does not negate the abusive nature of the act. In fact it may be this need for something that creates the vulnerability to abuse in the first place.

*Just because a child receives something they need or desire does not mean they are not being abused. Taking advantage of this need or desire - and the limited alternative options the child may have to meet these - and making them think they are in control because the child is getting something in return can be part of the abusive process.*

Like other cases of child sexual abuse, cases of Child Sexual Exploitation can potentially involve the commission of a range of sexual and other offences. Child Sexual Exploitation refers, not to the specific offence, but to the context within which this offending occurs.

It is important to remember that Child Sexual Exploitation, although predominantly experienced by those in their adolescent years, is not a catch-all category for all forms of violence and abuse in adolescence. Cases that do not involve the concept of exchange, for example, will not fall within the definition even where sexually exploitative behaviours (such as pressure or manipulation) are present and significant harm is being experienced. Similarly, a 15 year old boy pressuring his 14 year old girl/boyfriend into having sexual intercourse in order to remain in the relationship (though an issue that requires a response) would not be defined as if there is no significant power differential within the relationship. Nor would a one-off incident of sexual assault, where the victim has no prior or subsequent

contact with the perpetrator and the only gain involved is the sexual gratification of the perpetrator, though this would also obviously require a response.

It is therefore critical that Child Sexual Exploitation is not viewed in isolation from the more inclusive concept of sexual abuse and other relevant concepts such as trafficking, going missing and gendered violence that offer alternative means of responding to these and other issues that fall outside the definition of Child Sexual Exploitation.

*All forms of vulnerability and victimisation in childhood should be identified and responded to, in line with GIRFEC principles, irrespective of how they are defined or categorised.*

**Sexual exploitation is child abuse** and should be treated accordingly. Practitioners should be mindful that a 'dual approach' is key in tackling Child Sexual Exploitation ; whilst a young person must be both engaged with and supported, there must also be a focus on proactive investigation and prosecution of those involved in sexually exploiting the young person.

### **Risks Associated with the Internet**

There are specific risks associated with the internet in terms of child sexual exploitation, including:

- Grooming children on-line for sexual abuse offline;
- Children viewing abusive images of children/pornographic images;
- Selling children on-line for abuse offline;
- Making abusive images of children;
- Viewing abusive images of children;
- Access to chat lines via the internet or mobile phones;
- Sexting.

When undertaking an assessment around child sexual exploitation practitioners should consider what risks are posed to the child or young person through the internet, and those that are posed by the child or young person to other children or young people. (Please also see section on [Online and mobile phone child safety](#)).

## **Non-Disclosure**

Young people who are victims of CSE rarely directly disclose because they often do not recognise their own exploitation. For example, a young person may believe themselves to be in an 'adult relationship' with their abuser. Disclosure of sexual exploitation can be particularly difficult for young people; the sophisticated grooming and priming processes conducted by perpetrators and the exchange element of this form of abuse can act as additional barriers to disclosure.

Examples of other reasons for non-disclosure include:

- Fear that perceived benefits of exploitation may outweigh the risks e.g. loss of: supply of alcohol, drugs; the 'relationship' and associated 'love' and attention;
- Fear of retribution or that situation could get worse;
- Fear of violence within exploitative relationship;
- Shame;
- Fear of not being believed;
- Fear of labelling e.g. as a prostitute or gay;
- Fear of separation from family;
- Loss of control; fear of Police involvement and court proceedings.

## **Referral**

Anyone who works with children and families and has concerns that a child is at risk of abuse through sexual exploitation must make a referral in accordance with child protection procedures. This includes circumstances where there is a lack of evidence or where there may be concerns which cannot be substantiated. Referrals can help to build up a picture that a child may be suffering harm through sexual exploitation. It is important that practitioners do not wait for a disclosure from a young person or the accumulation of 'hard' evidence, prior to making a referral.

Referrals should also be made relating to 16 and 17 year olds and multi-agency consideration given to how best to take action to protect these young people.

Staff working with children affected by child sexual exploitation in Forth Valley are required to complete a data monitoring tool which can be accessed at <http://www.stirling.gov.uk/services/social-care-andhealth/care-and-carers/child-protection-and-vetting/child-protection-committee/child-protectioncommittee-resources> .

### **Further Information**

The [Forth Valley Child Exploitation Guidance](#) contains more information on Child Sexual Exploitation, including the [Joint Assessment Tool for Practitioners](#) and the [Vulnerability Checklist and Risk Factor Matrix](#).

Part 4 of the [Sexual Offences \(Scotland\) Act 2009](#) provides for offences criminalising sexual activity with a child under the age of 16, the 'age of consent'. Part 5 of that Act provides for offences concerning sexual abuse of trust. Specifically, the Act provides that it shall be an offence for a person in a position of trust over a child under the age of 18 or a person with a mental disorder to engage in sexual activity with that child or person.

The [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005](#) provides for an offence of 'grooming' which makes it an offence for a person to meet or travel to meet children for the purposes of committing a sexual offence following earlier communications and for specific offences concerning the sexual exploitation of children under the age of 18 through prostitution or pornography. It introduces Risk of Sexual Harm Orders (RSHOs), which are civil preventative orders aimed at protecting children from those who display inappropriate sexual behaviour towards them. To obtain a RSHO, it is not necessary for the individual to have a conviction for a sexual (or any) offence. The 2005 Act also extends the use of Sexual Offences Prevention Orders (SOPOs), so that they can be applied to those convicted of sex offences by the court when they are sentenced. Both SOPOs and RSHOs place conditions (i.e. prohibitions and positive obligations) on those subject to the orders.

Child Abuse Images -The sale, publication and possession of indecent images of children under the age of 18 is prohibited by Section 52 and Section 52A of the [Civic Government \(Scotland\) Act 1982](#) (as amended by the [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005](#)).

### **Key Messages for Practice**

- Child sexual exploitation is hidden and young people will often not disclose, or recognise their abuse.
- Child sexual exploitation is sexual abuse - no child can consent to their own abuse

## **Historical Reports of Abuse**

The term 'historical abuse' refers to reports of neglect, emotional, physical and sexual abuse which took place before the victim was 16 (or 18, in particular circumstances) and which have been made after a significant time lapse. The complainant may be an adult but could be an older young person making reports of abuse in early childhood. The reports may relate to an individual's experience in the family home, community or while they were a looked after and accommodated child in a residential, kinship or foster care setting.

Individuals may report historical abuse in the context of a therapeutic or counselling setting within the statutory or third sector. Others may report historical abuse directly to the police, social work services, health or education. It is possible that the person reporting historical abuse may not be a direct service user but a parent/carer, partner or other family member of an individual accessing these services.

Any professional concern that a child may be at risk of harm will always over-ride a professional or agency requirement to keep information confidential. All service providers have a responsibility to act to make sure that a child whose safety or welfare may be at risk is protected from harm. It is good practice that service users are routinely made aware of the circumstances when confidentiality will be breached, at the initial stages of contact with a service.

When a report of historical child abuse is received by any agency, consideration needs to be given to the investigation of any current child protection concerns. This should include determining whether there are any children potentially still at risk from the suspected perpetrator(s). This may be in a professional capacity such as in a residential or foster care setting, within a personal family setting in the wider community, within other institutional settings or a combination.

It is not uncommon for individuals to report historical child abuse to practitioners in a therapeutic setting but to be unable or unwilling to go to the police. Consideration should be given to whether the individual requires support and protection as an adult at risk of harm. Their needs must be balanced against the need to protect any child/children who might currently be exposed to risk from the suspected perpetrator(s). Where possible, there should be an agreement between agencies to allow individual support plans to be put in place.

Services supporting or taking part in investigations relating to individuals reporting historical abuse should be mindful of potential barriers to making a report. These may include the fear of not being believed or that the investigating agencies may side with the abuser(s), especially if the abuse has happened within a care setting.

As with all investigations into suspected or reported abuse, the agencies involved should take a measured, planned approach that balances current child protection risks with support for the individual. Multi-agency communication and collaboration is vital and services should be proactive in ensuring they have a clear understanding of each others' roles and remits.

Individuals reporting historical abuse should be offered ongoing emotional support. Individuals can then be signposted to sources of support both during and after the investigation, as needed.

It is not uncommon for a person to experience an increase in post-traumatic stress disorder symptoms as they are questioned about their abusive experiences. Services should be mindful of how this may impact on an individual's ability to convey essential information to inform the investigation.

Key to the investigation of reports of historical abuse is access to relevant records, including those relating to, for example, former staff in residential care settings and foster carers. Locating and retrieving records can be a challenge and the quality and level of detail may vary. Local guidelines include clear protocols on record-keeping and record management, including record retrieval.

Where investigations into reports of historical abuse suggest that the reported abuse was part of a wider organised network or involved multiple abusers, agencies should follow this guidance. (For further information, see the section on Complex child abuse investigations)

## Further Information

[The Historical Abuse Systematic Review on Residential Schools and Children Homes in Scotland 1950-1995](#)

### Key Messages for Practice

- When a report of historical child abuse is received by any agency consideration must be given to the investigation of any current child protection concerns.
- Consideration needs to be given as to whether the individual involved needs support and protection as an adult at risk
- Services supporting or taking part in the investigation of individuals reporting historical abuse should be mindful of potential barriers to reporting abuse
- The individual's need for support must be balanced with the need to protect any child/children who may currently be exposed to any risk from the suspected or reported perpetrator(s)
- Individuals reporting historical abuse should be offered ongoing emotional support

## Allegations against Staff

Allegations can be made against staff currently involved with children. Allegations can also be historical, against individuals no longer working with children

In this section 'agencies' refer to all organisations, groups or individuals that provide services for children and/or families – either directly, indirectly, by way of contract, volunteering, caring or in any other capacity

Allegations can come from any source – from children or young people, from parents, other member of staff, members of the general public, or from external professionals

For the purposes of this section 'core agencies' refer to Health, Social Work Services and Police

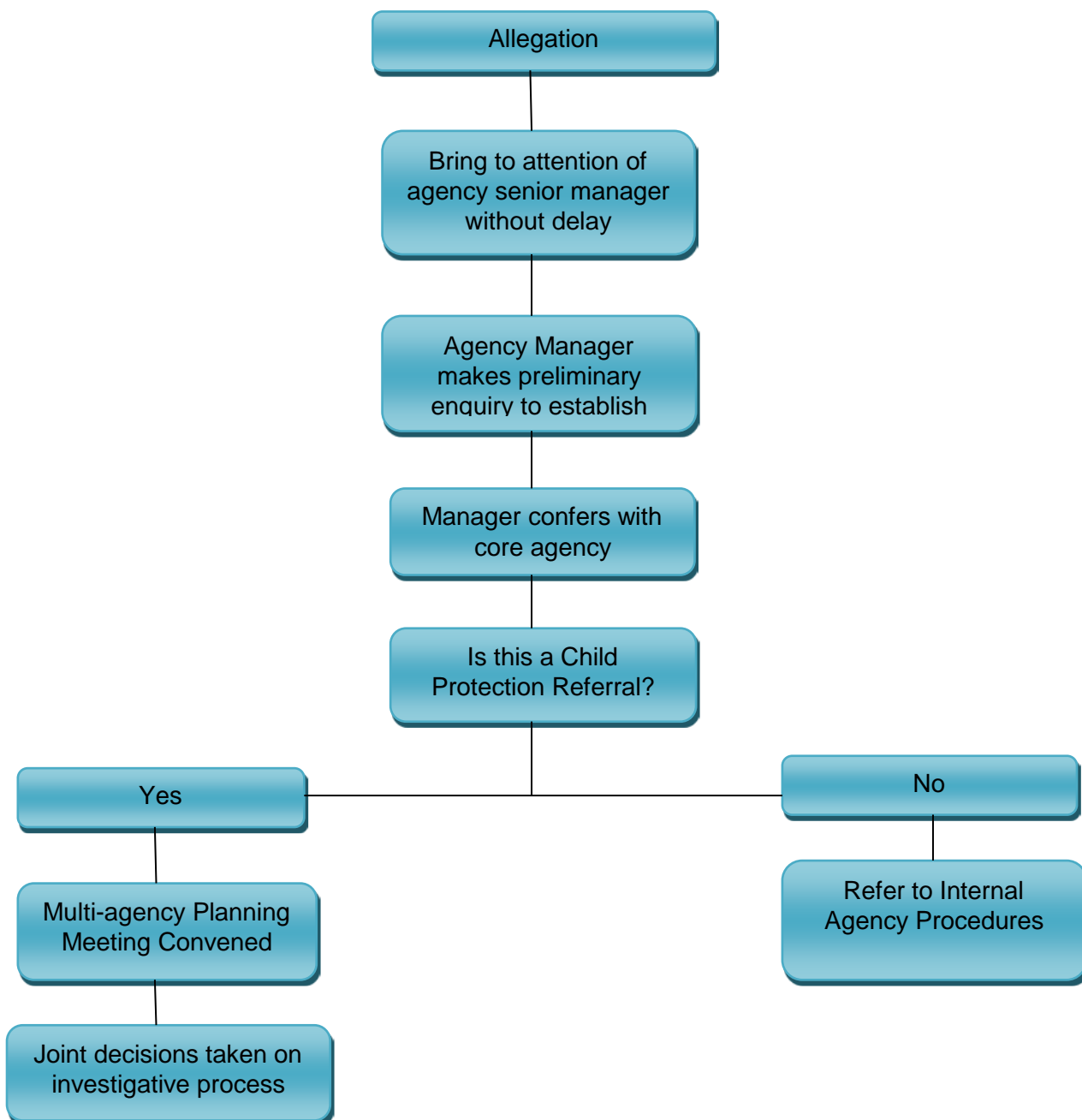


## **Procedures**

1. All allegations of abuse made against staff must be taken seriously and investigated
2. Such allegations must be responded to within short timescales (same day)
3. A designated senior manager must be informed when an allegation against a member of staff is made
4. The senior manager may make, or instruct an appropriate officer to make, preliminary enquiries in order to establish the nature of the allegation
5. It is the responsibility of the senior manager to ensure that this preliminary enquiry does not go beyond trying to establish the basic details of the allegation. It should not compromise any subsequent formal investigation
6. The senior manager will contact one or more of the core agencies (usually Social Work or Police) in order to consider whether the matter constitutes a child protection referral
7. If the allegation is deemed to constitute a child protection referral then one of the core agencies will initiate a multi-agency planning meeting
8. The planning meeting is likely to be chaired by a senior manager from one of the core agencies and will involve senior staff from all relevant agencies. The meeting should be carried out either on the day of the allegation, or the following working day, and it should be prioritised by all relevant agencies
9. This approach will ensure that the child protection element of the allegation is robustly assessed, whilst affording the staff member maximum discretion until the conclusion of any investigation, and until decisions have been made regarding the substance of the allegations

10. At the planning meeting all relevant information on the child/young person and the member of staff against whom the allegation has been made will be shared. This will include health and social background, any relevant concerns and issues about current practice, and any previous allegations that have been made about the member of staff. Parallel considerations will be made for the outcomes for the child and for the member of staff
11. Within the context of the meeting, it may also be relevant to consider any risk posed by the member of staff to their own children, or other children that they have regular contact with
12. The multi-agency planning meeting may lead to a single agency investigation or a joint investigation (JI) in relation to the allegation
13. Consideration should be given at the planning stage as to how parents, carers and/or the child will be kept informed
14. Concurrent with this multi-agency planning, the senior manager within the agency concerned should call a risk assessment meeting, in order to manage all short term risks. Any agency decision taken should be co-ordinated with the ongoing multi-agency planning and investigation. In order to ensure that this is the case, communication with the lead agency should be regular and efficient. Someone from the lead agency should be assigned as the liaison person to the employing agency in order to keep it updated on the progress of the investigation
15. It may be necessary to suspend a member of staff from duty, or remove them from frontline practice immediately, pending an investigation. This will depend upon the nature of the allegation, and could be for one or more of the following reasons:
  - i. to avoid possible further risk to children
  - ii. To avoid possible risk of further allegations against the member of staff
  - iii. To prevent the contamination or destruction of evidence

16. The employing agency's own risk assessment should consider the following:
  - i. All information and decisions taking by the multi-agency planning group
  - ii. Whether suspension, re-deployment or some other protective measure should be undertaken
  - iii. Whether referral should be made for PVG listing, or provisional alert be given to the appropriate registering body e.g. GTCS, SSSC
  - iv. The duty of care to the member of staff concerned
  - v. Advice on independent counselling and representation for the member of staff concerned
  - vi. The appointment of an appropriate liaison officer (not the member of staff's line manager or any other member of staff who is close to the allegation)
  - vii. The management of all aspects of communication: press enquiries, enquiries from the public, parents or other members of staff or elected members (where relevant)
  
17. The guiding principle in considering all aspects of communication is that maximum confidentiality be maintained. Where Police are taking the lead in any investigation, liaison should be undertaken to ensure that any communication strategy is compatible with the Police investigation
  
18. Each agency should have its own suitable risk assessment tool for recording decisions and keeping a written record. This should be updated by the designated senior manager as the process unfolds and should constitute a confidential record of the 'allegation against staff'. The agency should store this in a confidential restricted area, and should share it with its HR department, where appropriate
  
19. When the allegation is not considered to be a Child Protection matter, the agency may decide to deal with the matter internally, possibly through its own disciplinary procedures.
  
20. Where an internal investigation is undertaken by an agency, and the matter is subsequently taken up by the Police (through an independent complaint) any subsequent Police investigation will take precedence. Any CP / criminal investigation will have primacy over an agency's internal disciplinary procedure, and this may have to be suspended.



**Further Information**

Care Inspectorate - <http://hub.careinspectorate.com/media/106715/sg-guidance-on-allegations-against-residential-workers.pdf>

Scottish Social Services Council - <http://www.sssc.uk.com/about-the-sssc/multimedia-library/publications/37-about-the-sssc/information-material/61-codes-of-practice/1020-sssc-codes-of-practice-for-social-service-workers-and-employers>

## Children who are Looked After Away from Home

Child protection concerns are not limited to a child's family circumstances, but cover any care environment provided for children.

Looked after and accommodated children generally receive intensive support whilst there is an opportunities to work with parents to improve family life and ensure that children are returned to a safe environment.

However looked after children present distinctive challenges to practitioners supporting children. A looked after child may be placed with kinship carers, foster carers or in a residential setting-school, young people's unit or respite care service. Disabled children are over represented in the population of looked after children and are often placed away from home in residential care or health settings which may increase their vulnerability. The potential to abuse a position of trust may increase when children and carers are living together and sharing a home. Whatever the case, the main consideration in responding to any concern must be the safety of the child. As with investigations into children living in the community, any looked after child voicing a concern must be listened to and taken seriously. Equally, the carers should be treated with respect and their views also taken seriously.

Where the concern involves reports of abuse, the carer will be subject to investigation on the same basis as other individuals. While not deviating from the primary concern to ensure the safety of the child, those exploring these types of concerns will need to address a number of additional considerations. Foster and kinship carers of looked after children provide care from their own homes, and are subject to scrutiny from statutory agencies. This can create pressure and the issues particular to foster and kinship care settings need to be understood by those responsible for exploring concerns.

Looked after children who have had to leave the care of their parents will often exhibit complex emotions and challenging or irrational behaviour. Many will have experienced disruption in their early years and been emotionally and physically neglected or abused. Parents of looked after children may experience guilt, sadness and anger. These feelings may be expressed in the form of complaints about the care and treatment that their child is receiving.

In all of the settings where looked after children live, their earlier experiences can lead them to interpreting care in diverse ways, including feeling that they have been singled out for 'criticism' or 'punishment' unfairly. Some may have reported abuse in the past to escape from difficult situations. Some may feel guilt at being cared for away from their family and may want to blame the carer(s).

When concerns about a looked after child are raised, it should be remembered that further disruption (for example, a sudden move into a new care environment) may damage their recovery. The consequences of removing a child must be considered alongside their safety. Placement stability should be maintained wherever safe and possible.

It is vital that all concerns are rigorously investigated while treating carers consistently, fairly and with consideration. Carers should be given as much information about the concern at the earliest possible point compatible with a thorough investigation.

Lead Professionals have a responsibility to clarify concerns raised about a looked after child in collaboration with the staff carrying out the child protection investigation as well as with the service managers of the fostering or residential provision.

Where there is a report of abuse involving a looked after child, Lead Professionals will need to consult with the police to agree the way forward. This may be a child protection investigation, or further enquiries by the fostering or residential service provider or the child's social worker.

Whatever the action to be taken, practitioners will need to discuss the needs of the child, the context of their care, key events in their lives at that time and any possible triggers for a concern being raised either by the child or others. Fostering or residential service providers should be included in the discussion. All practitioners involved with protecting the child need to be fully informed about the role of carers and the regulations that relate to their work. These meetings will facilitate the sharing and assessment of information, leading to a decision as to the next steps to be taken. If emergency action is required to protect the child, this should be discussed, as should ways of protecting the child at the same time as preserving placement stability. Options for the way forward for a looked after child are the same as for children in their own families.

**Separated children** are children who are outside their country of origin and separated from their parents or legal or customary care giver. Local authorities are responsible for assessing their needs and offering support. Separated children are often vulnerable due to their unaccompanied status and to their experiences in their home countries and during their journey to the UK. If child protection concerns arise, they should be addressed in the same way as if the child was a UK national.

Particular consideration needs to be given to the use of interpreters for separated children and to accessing specialist legal advice.

#### **Further information**

- [Managing Allegations Against Foster Carers and Approved Kinship Carers - How Agencies Should Respond](#)
- [The Scottish Refugee Council](#)
- [The Scottish Guardianship Service](#)

#### **Key Messages for Practice**

All concerns about a looked after child's safety should be rigorously investigated while treating carers consistently, fairly and with consideration.

The consequences of removing a child must be balanced with the need to ensure their safety. Placement stability should be maintained wherever safe and possible.

Responses need to be proportionate to the nature of concerns raised.

Child protection concerns relating to separated children should be addressed in the same way as any similar concerns about a child that is a UK national.

#### **Online and Mobile Phone Child Safety**

New technologies, digital media and the internet are an integral part of children's lives. Whether on a computer at school or at home, a tablet, a games console or mobile/smart phone, children and young people are increasingly accessing the internet whenever they can and wherever they are. This has enabled entirely new forms of social interaction to emerge, for example, through social networking websites and online gaming. But these new technologies also bring a variety of risks from adults and peers, such as:

- exposure to obscene, violent or distressing material;
- bullying, coercion or intimidation through email and online (cyber-bullying);
- identity theft and abuse of personal information;
- pro-eating disorder, self-harm or suicide sites; and
- sexual exploitation by online predators - for example, grooming - often through social networking sites. (See section on [Child Sexual Exploitation](#))

Where police undertake investigations into online child abuse, or networks of people accessing, or responsible for, images of sexually-abused children, consideration must be given to the needs of the children involved and sharing this information with the Named Person. This may include children or young people who have been victims of the abuse or children and/or young people who have close contact with the suspected perpetrator. In many cases, they will have been targeted because they were already vulnerable. Consideration should be given to how they can best be supported. Practitioners should understand the risks that these technologies can pose to children and the resources available to minimise those risks. This will include having a clear understanding of normal, age-appropriate sexual development in order to better identify those attitudes and behaviours that they should be concerned about. When undertaking an assessment around child sexual exploitation they should consider what risks are posed to the child or young person through the internet and those that are posed by the child or young person to others.

Practitioners and carers need to support young people to use the internet and mobile technology responsibly, and know how to respond when something goes wrong.

#### **Further information**

- [Child Exploitation and Online Protection Centre](#)
- [ThinkuKnow](#)
- [Internet Watch Foundation.](#)
- [WithScotland's Keeping Children and Young People Safe Online: Balancing Risk and Opportunity](#)  [respectme](#)
- [Forth Valley E-Safety handbook](#)



### **Key Message for Practice**

Where police undertake investigations into online child abuse, consideration must be given to the needs of children involved in these investigations.

Local services need to consider how best they can support and co-ordinate any investigations into such offences and must therefore understand the risks that these technologies can pose to children and the resources available to minimise those risks. Practitioners and carers need to support young people to use the internet and mobile technology responsibly and know what to do when something goes wrong.

## **Children and Young People Who Place Themselves At Risk**

Some children and young people place themselves at risk of significant harm from their own behaviour. Concerns about these children and young people can be just as significant as concerns relating to children who are at risk because of their care environment. The main difference is the source of risk, though it should be recognised that at least some of the negative behaviour may stem from experiences of abuse. Where such risk is identified, as with other child protection concerns, it is important that a **multi-agency response** is mobilised and a support plan identified to minimise future risk and that consideration is given to whether Compulsory Measures of Supervision might be required. The key test for triggering these processes should always be the level of risk to the individual child or young person and whether the risk is being addressed, not the source of risk.

While not exhaustive, the following lists the different types of concern that may arise:

- self-harm and/or suicide attempts;
- alcohol and/or drug misuse;
- running away/going missing;
- inappropriate sexual behaviour or relationships (for further information, see the section on Underage sexual activity);
- sexual exploitation;
- problematic or harmful sexual behaviour;
- violent behaviour; and
- criminal activity.

## Children & Young People Who Are Missing

Describing a child or young person as 'missing' can cover a range of circumstances. In this context, the term 'missing' also includes children who are unseen or hidden. A child, young person or family (including unborn children) can be considered as missing in different context:

**Children who are 'missing' to statutory services.** This can include a child or family's loss of contact with, or their 'invisibility' to, a statutory service, such as education (for example, home educated children, Gypsy/Traveller community), health, social services or third sector; for example, the parent may have repeated explanations for the child's absence such as playing outside or with friends and relatives; the parent may withdraw the child from services; or there is no response when calls are made to the child's home.

**Children who are 'missing' from home or care.** This can involve a child or young person who has run away from their home or care placement, who has been forced to leave or whose whereabouts are unknown. This may be because they have been the victim of an accident, crime and/or because they have actively left or chosen not to return to the place where they are expected.

A child or young person who has run away, and cases where children/young people have been 'thrown out' by their parents or carers, are both covered by the term '**runaway**' (though the individual circumstances and needs of the child or young person may vary considerably).

Children and young people who go missing remain vulnerable to the factors that led to them going missing (for example, domestic abuse in a care environment) as well to the risks associated with being missing (for example, homelessness). The number of children classified as missing is not clear, but extreme cases can result in homelessness and sleeping rough, engaging in crime, drugs and vulnerability to sexual exploitation. Many cases are never reported to police and few such children ever approach agencies for help.

The reasons for a child's absence may not be apparent. A number of circumstances in which children or young people may be termed as missing are listed below (most are discussed in detail elsewhere in the guidance):

- **Parental abduction.** A parent may fail to return or remove a child from contact with another parent, in contravention of a court order or without the consent of the other parent (or person who has parental rights). This can occur within national borders as well as across borders.
- **Stranger abduction.** A child may fail to return because they have been the victim of a crime.
- **Forced marriage.** A child or young person may go missing due to being forced into marriage abroad or within the UK.
- **Trafficked children and young people.** A child or young person may go missing due to being trafficked and later being removed from a placement. Asylum-seeking children are particularly vulnerable to vanishing. Their substitute care may feel unsafe, and many do not have a trusted adult to advocate for them.
- **Sexual exploitation.** A child or young person may go missing due to sexual exploitation.
- **Young runaways and those 'forced to leave' or thrown out.** This can include 'any child or young person under the age of 16, who is absent from their domicile without the reasonable authority of those responsible for or in charge of them, and who needs a service either to find and return them to that place (where it is safe or in the child's interests to do so), or to keep them safe; ensure an appropriate and proportionate response to their needs; meet statutory obligations and under the age of 18 who runs from substitute care. [Young Runaways Protocol](#)

**1 in 9, The Scottish Coalition for Young Runaways (2007)** 'Children who go missing from home or care may do so because they are running away 'from' a source of danger or have been forced to leave; or because they are running 'to' something or someone. They can be at significant risk as they may need to find a safe alternative place to stay, often with few resources. This can result in begging or stealing or staying with a complete stranger'.

- **Vulnerable young people.** Such young people are identifiable by their criminal or risk-taking behaviour, poverty, disengagement with education, being looked after, self-harming, mental health issues and/or experience of abuse. They may take steps to escape from their situation.
- **Transition.** Young people moving from children to adult services need processes in place to manage this experience, maximising support and minimising risk. Transition can be a difficult time for young people and their parent/carer, or carer or staff in residential care. Some express their negative emotions through high risk and sometimes offending behaviour; they may also be vulnerable to alcohol and/or drug misuse and sexual predators. These cases are very challenging to manage effectively and call for a collaborative approach that includes offender management services.
- **Home-educated children.** A child may be unknown to services as a result of their removal from mainstream education or never having been enrolled within an education authority. Where this is the result of a decision being made to educate them at home this should not, in itself, be regarded as a child protection concern.

The above circumstances are not mutually exclusive. As a result, multi-agency working is central to risk assessment and management and effective practice with 'missing children'. Collaborative inter-agency and cross-boundary working is crucial in missing children situations.

Single agency alert databases should be cross-referenced with partner agencies and information-sharing needs to be managed within the inter-agency data-sharing protocol.

It is essential if a child is found to be missing and the circumstances indicate that the child is at risk or the disappearance has a criminal element, such as Child Sexual Exploitation that the police Public Protection Unit (PPU) are contacted without delay. This will allow for an early assessment of the circumstances and for a coordinated response to tracing the child at the earliest opportunity

[Child Rescue Alert](#) is a partnership between the police, the media and the public set up to respond when a child, who is apparently under 18 years old, is feared to be in imminent danger of serious harm or death. The aim is to quickly engage the entire community via media (TV and radio) in searching for the child, offender or any specific vehicle and reporting any sightings to the police. The scheme is invoked where there is a reasonable belief that a child is in imminent danger and there is sufficient information available to enable the public to assist the police in locating the child.

If a person or agency suspects that a child has been taken by, or is under the influence of, a third party (which may include parental abduction or 'grooming'), the police must be notified as soon as possible so they can decide whether to launch an alert. All instances of missing children or abduction must be quickly reported to the police so that appropriate decisions can be made.

#### **Further information**

- [Private Fostering - Responsibilities of Local Authorities](#)
- [Included, engaged and involved part 1: attendance in Scottish schools](#)
- [Included, engaged and involved part 2: a positive approach to managing school exclusions](#)
- [Home Education Guidance.\(Scottish Government, 2007\)](#)

#### **Key Messages for Practice**

- Children can be deemed 'missing' because they are absent from statutory care and/or absent from home or care.
- 'Missing' covers a range of scenarios, including children running away from home, abduction and the planned removal of children from statutory educational services through home education.
- Where children are designated as 'missing', multi-agency risk assessment and coordination is essential for location of the child and any subsequent support, extending in some cases to the issuing of media alerts through the police.
- If practitioners are concerned that a child or young person is 'missing', they should make every effort to visit and see that the child is safe and well.

## Under Age Sexual Activity

Increasing numbers of young people are engaging in a range of sexual activity before the age of 16. The reasons behind this behaviour vary considerably. In some cases, the activity will be wholly consensual; in others it will happen in response to peer pressure or as the result of abuse or exploitation. Young people who are sexually active will, therefore, have differing needs, so services and practitioners must provide a range of responses. National Guidance (see below) provided by the Scottish Government covers the legal issues and advises practitioners how they can strike a balance between assuring the freedom of young people to make decisions and protecting them from activity which could give rise to immediate harm and/or longer-term adverse consequences.

The law is clear that society does not encourage sexual intercourse in young people under 16. However, it does not follow that every case presents child protection concerns and it is important that a proportionate response is made. If there are no child protection concerns, there may still be needs to be addressed either on a single agency or multi-agency basis. However, child protection measures must be instigated:

- if the young child is, or is believed to be, sexually active and is 12 or under;
- if the older child is currently 13 or over but sexual activity took place when they were 12 or under; and
- if information suggests that any older child has been forced or enticed to take part in sexual activities (sexual abuse including child sexual exploitation), is or has been involved in pornography or prostitution, or the other person is in a position of trust in relation to an older child.

When a practitioner becomes aware that a young person is sexually active or is likely to become sexually active, they should undertake an assessment of risks and needs so that the appropriate response can be provided. The practitioner has a duty of care to ensure that the young person's wellbeing needs are addressed and to assess whether the sexual activity is of an abusive or exploitative nature.

This process may not always be straightforward, so it will require sensitive handling and the use of professional judgment. Practitioners should pay particular regard to the presence of any of the following adverse risk indicators:

### **The child**

- Is the child under the age of 13 or did the sexual activity take place when the child was under 13?
- Did the older child understand the sexual behaviour they were involved in?
- Did the older child agree to the sexual behaviour at the time?
- Did the older child's own behaviour – for example, use of alcohol or other substances place them in a position where their ability to make an informed choice about the sexual activity was compromised?
- Was the older child able to give informed consent? (for example, mental health issues, learning disability or any other condition that would heighten the young person's vulnerability)
- Was the older child given a sense of affection in return i.e. exploited by the other party?

### **The Relationship**

- Was there a coercing power or any other relevant imbalance present in the relationship? (for example, differences in size, age, material wealth and/or psychological, social, intellectual and physical development – in addition, gender, race and levels of sexual knowledge can be used to exert power.) It should not automatically be assumed that power imbalances do not exist for two older children similar in age or of the same sex.
- Were manipulation, bribery, threats, aggression and/or coercion, involved? (for example, was the young person isolated from their peer group or was the older child given alcohol or other substances as a dis-inhibitor etc.)

### **The "Other Person"**

- Did the other person use 'grooming' methods to gain the trust and friendship of the older child? (for example, by indulging or coercing the older child with gifts, treats, money etc; by befriending the older child's family; by developing a relationship with the older child via the internet)
- Did the other person attempt to secure secrecy beyond what would be considered usual in teenage sexual activity?
- Was the other person known by practitioners to be or have been involved in concerning behaviour towards other children and young people?

- Was the other person in a position of trust?

### **Other factors**

- Was the older child, male or female, frequenting places used for prostitution?
- Is there evidence of the older child being involved in prostitution or the making of pornography?
- Was the young man frequenting places where men have sex with men in circumstances where additional dangers, for example, physical assault, might arise?
- Were there other concerning factors in the older person's life which may increase their vulnerability? (e.g. homelessness)
- Did the older child deny, minimise or accept the concerns held by practitioners

### **Further Information**

[Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns.](#)

#### **Key Messages for Practice**

- Increasing numbers of young people are engaging in a range of sexual activity before the age of 16.
- However, it does not follow that every case presents child protection concerns and it is important that a proportionate response is made (though there are instances where child protection measures must be immediately instigated).

### **Bullying**

Bullying behaviour may include:

- name-calling, teasing, putting down or threatening;
- ignoring, leaving out or spreading rumours;
- physical assault;
- stealing and damaging belongings;



- sending abusive text, email or instant messages;
- making people feel like they are being bullied or fearful of being bullied; and
- targeting someone because of who they are or are perceived to be.

Such behaviour can leave people feeling helpless, frightened, anxious, depressed or humiliated and can have a devastating and lifelong impact.

Bullying behaviour can take place in schools, children's services, residential services, at home and in the community, at youth groups and out-of-school care and can come from both children and adults. It is also increasingly associated with the use of the internet and mobile phone technologies, especially via social networking sites such as Facebook (so-called 'cyber-bullying'). In essence, the behaviour is the same and requires similar prevention methods.

Bullying behaviour may be related to perceived or actual difference and involve the expression of prejudices regarding, for example, race, gender, disability and sexual orientation. It may be just one manifestation of the prejudice experienced by the child or young person, and/or may compound other difficulties in their life. With this in mind vulnerable and marginalised children and young people may be particularly at risk.

#### **Further information**

- [respectme](#)
- [Childline](#)
- [Parentline \(Scotland\)](#)
- [Cyberbullying - Safe to Learn: Embedding anti-bullying work in schools](#)

#### **Key Messages for Practice**

- All organisations that work with children and young people should develop and implement an anti-bullying policy, to provide a framework for proactive and reactive strategies for responding to bullying.

## APPENDIX 1: LEGISLATION

### Legislation Defining Offences Against Children

#### [Protection from Abuse \(Scotland\) Act 2001](#)

While the primary focus of this legislation is women subjected to domestic abuse and the potential legal remedies available to them, aspects can assist attempts to safeguard the interests of children, particularly given what is now known about the impact of abuse on children.<sup>83</sup> The primary remedy offered by the Act is that of powers of arrest being attached to an interdict, regardless of the relationship between the abused and the abuser.

#### [Criminal Justice \(Scotland\) Act 2003](#)

This wide-ranging piece of legislation has important sections that relate to children and young people both in terms of the Children's Hearings system and the interpretation of what constitutes legally justifiable physical punishment. Following a consultation exercise in 2000, where opinions were very divided, it became clear that there was no consensus across Scottish society on the so-called 'smacking ban'. Section 51 clarifies that it is an offence to punish a child in any manner that involves 'a blow to the head, shaking or the use of an implement'. Where any such offence is committed, the defence of reasonable chastisement does not apply.

Sections 52 and 53 relate to changes in terms of the reporting restrictions on Children's Hearings and to information that the principal Reporter can make available to child victims and relevant persons where the offender is also a child.

Section 16 addresses issues around the rights of victims to be advised of the release dates, etc., of offenders. This may be relevant to children in circumstances where the perpetrator of offences against them has been given a significant prison sentence.

### [Prohibition of Female Genital Mutilation \(Scotland\) Act 2005](#)

This legislation makes it an offence for a person to carry out specified female genital mutilation procedures on another person or to aid or abet another person to carry out such procedures. This includes making it an offence to send a girl abroad for the purpose of female genital mutilation. For further information, see the section on [Female Genital Mutilation](#).

### [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005](#)

This important legislation introduced a number of offences including that of 'grooming' a child under the age of 16 for sexual purposes and meeting such a child following prior contact for the purposes of engaging in some form of illegal sexual conduct. This latter offence is often linked to contact via online chatrooms. For further information, see the section on [Online Child Safety](#).

Under sections 10-12, arranging or facilitating any sexual services from a young person under the age of 18 is an offence, as is attempting to control a young person for the provision of such services, including pornography. In the case of the production of pornographic images, the previous upper limit was 16.

Section 2 also introduced Risk of Sexual Harm Orders that aim to protect children and young people from persons who may not have been convicted of any criminal offence but who have engaged in some level of sexually explicit behaviour or communication in respect of a child under 16. This is a civil matter and the Order would be sought by the Chief Constable through application to the Sheriff. It is not intended as a substitute for criminal process but rather as a means of protecting children at an earlier stage.

### [Sexual Offences \(Scotland\) Act 2009](#)

This Act translated a number of common law offences – including rape – into statutory offences and clarified the issue of consent, introducing a new definition of consent as 'free agreement'. A number of what are described as 'protective' offences were introduced to allow for the protection of individuals who, by virtue of their age or mental capacity, may not be deemed able to engage in 'free agreement' to sexual activity. The Act introduced in sections 42-45 a new offence relating to a breach of a position of trust in respect of a child.

The Act provides clear guidance as to what constitutes a position of trust in these circumstances. It updated and amended the provisions of the UK Sexual Offences (Amendment) Act 2000.

Section 55 also allows for a Scottish resident to be convicted of an offence committed abroad if it would be deemed a criminal offence in Scotland. It is no longer necessary for the behaviour to be illegal in the country where it occurs. Unlawful sexual intercourse with a 12-year-old somewhere in Asia, for example, would be able to be prosecuted in Scotland.

### [Children's Hearings \(Scotland\) Act 2011](#)

The Children's Hearings system has undergone a period of change following the Children's Hearings (Scotland) Act 2011. The Act was introduced to Parliament in February 2010 and was enacted on 6 January 2011. The Act aims to strengthen and modernise the Children's Hearings system and brings into one place most of the children's hearings related legislation.

The 2011 Act came into force on 24 June 2013.

The main structural elements of the Act include:

- the creation of the role of the National Convener, who will, for the first time, act as a figurehead for panel members and ensure they are consistently supported to a high standard.
- a dedicated national body, Children's Hearings Scotland (CHS). CHS supports the National Convener in the delivery of her functions associated with: the recruitment, selection, training, retention and support of panel members.
- the dissolution of local authority panels and the creation of a national children's panel with area support teams to support panel members at a local level.
- the creation of the national Safeguarders Panel to improve consistency and standards and improve understanding within the system of the safeguarder role.

### [Children and Young People \(Scotland\) Act 2014](#)

This Act was introduced to Parliament on 17 April 2013 and enacted on 27 March 2014. Some provisions within the Act will commence immediately. Others, in respect of reporting on outcomes, are expected in 2015 and the remaining in 2016. The Act will place duties on service providers to reinforce the GIRFEC approach in respect of the Named Person, Child's Plan etc. which is currently being implemented.

### **Legislation on Managing Adults Who May Pose a Risk to Children**

#### [Criminal Justice and Licensing \(Scotland\) Act 2010](#)

The Criminal Justice and Licensing (Scotland) Act 2010, provides for a new statutory offence of 'stalking' specifically criminalising stalking. Conduct constituting stalking may, depending on the circumstances, be prosecuted using a number of common law and statutory offences. Some of the offences most relevant to stalking, including breach of the peace, threatening and abusive behaviour, the law on threats and offences under the Sexual Offences (Scotland) Act 2009, are described above. Conduct which might be described as harassment or stalking can be prosecuted under Scots law as a breach of the peace. This common law offence covers all behaviour (including single incidents) which is severe enough to cause alarm to ordinary people and threaten serious disturbance to the community. As a common law offence, the scope of the offence is ultimately a matter for the courts to determine but it is a wide-ranging offence and the courts recognise that it can be serious. The maximum penalty for common law offences such as breach of the peace is limited only by the court in which the case is tried. In the High Court, a life sentence is theoretically possible.

[Section 38](#) of the Criminal Justice and Licensing (Scotland) Act 2010 provides for an offence of 'threatening and abusive behaviour. It provides that it is an offence for a person to behave in a threatening or abusive manner towards someone if that behaviour would be such as to be likely to cause a reasonable person to feel fear or alarm. This offence is intended to allow for the prosecution of threatening or abusive behaviour that could previously have been prosecuted as a breach of the peace, prior to the Appeal Court's decision in the case of Harris v.HMA in 2010, which ruled that the crime of breach of the peace requires a public element.

### [Police Act 1997](#)

Part V of this legislation provides the responsibility and authority for 'disclosure checks' on individuals by local authorities or third sector organisations as well as other organisations depending on the nature of the work being undertaken. This is further supported by the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006. The legislation allows such bodies to seek to obtain criminal record certificates (known generally as 'disclosures') on any person who is likely to undertake direct work with children and other vulnerable groups. For such purposes, disclosure of previous criminal convictions must be obtained at an 'enhanced' level. This means that spent convictions under the terms of the Rehabilitation of Offenders Act 1974 are included, together with any other information considered relevant by the police and other authorities. Under the legislation, checks are undertaken on foster carers, employees and any person who, while not holding any form of parental rights in respect of a child, may be entrusted with their regular care.

### [Protection of Vulnerable Groups \(Scotland\) Act 2007](#)

The Protection of Vulnerable Groups (Scotland) 2007 (PVG) Act, which was commenced in 2011, introduced a new membership scheme to replace and improve upon the current disclosure arrangements for people working with vulnerable groups. The PVG Scheme is designed to create a fair and consistent system that will help to ensure that those who have regular contact with children and protected adults through paid and unpaid work do not have a known history of harmful behaviour. The scheme is intended to be quick and easy to use, reducing the need for members to complete a detailed application form every time a disclosure check is required, and aims to strike a balance between proportionate protection and robust regulation and make it easier for employers to determine who they need to check in order to protect their clients.

During the first year after "go-live", the PVG Scheme will only be available for those joining the vulnerable groups' workforce for the first time, moving posts or whose circumstances have changed. The whole of the current workforce will be phased into the scheme over the following three years. [\*Safer Recruitment through Better Recruitment: Guidance in Relation to Staff Working in Social Care and Social Work Settings\*](#) was guidance published by the Scottish Government for social care and social work employers to support use and development of recruitment and selection processes which help to ensure only staff suitable to work with service users are employed.

### [Domestic Abuse \(Scotland\) Act 2011](#)

The Domestic Abuse (Scotland) Act 2011 came into force on 20th July 2011. This legislation was introduced to improve access to justice and the protection available for all those who are subject to domestic abuse. The Act introduces two main changes to the remedies which were available to people in that situation:

- a. The Act removes the requirement for a person, who is the victim of harassment, to show that there has been a “course of conduct” before a Non Harassment Order will be granted. Now, under the Act, evidence of only one such incident of harassment will be needed for such an order to be granted.
- b. The Act now makes it a criminal offence for a person to breach a Domestic Abuse Interdict or Interim Interdict which has a Power of Arrest attached to it.

### **Legislation on Criminal Proceedings and Witness Supports**

#### [Sexual Offences \(Procedure and Evidence\) \(Scotland\) Act 2002](#)

This legislation places restrictions on when an accused person is allowed to conduct his own defence and thereby cross-examine the defendant. The categories include a range of offences against children, including unlawful sexual intercourse with a girl aged 13-16 and indecent behaviour towards a girl aged 12-16. The accused is also prohibited from precognition of a child witness under oath and there are specific bail conditions relating to attempting to obtain statements from the complainer. The effect of this legislation was extended further in the Vulnerable Witnesses (Scotland) Act 2004 to include non-sexual offences involving children under 12.

#### [Vulnerable Witnesses \(Scotland\) Act 2004](#)

Under this legislation, which amended some sections of the Criminal Procedure (Scotland) Act 1995, children who are called upon as witnesses are no longer required to undergo a competence test to ascertain whether they can understand the distinction between telling the truth and lying. Equally important is that under section 6 (which inserts section 288E to the Criminal Procedure (Scotland) Act 1995), an accused cannot conduct his own defence where the child concerned is under 12 and the offence involves sexual assault or violence.

One of the most important aspects of this legislation is the introduction of a range of special measures to support the vulnerable child when giving evidence or being cross-examined. The Act covers criminal cases, civil cases and Children's Hearings court proceedings. Standard special measures available to all child witnesses under 16 are a live TV link, screens in the courtroom and the presence of a supporter. Further special measures, available on application to the court, include evidence being taken in advance in the form of a prior statement (criminal cases only) or being taken by a commissioner.

It is important to note that a person under the age of 16 – i.e. a 'child witness' – is, per se, a 'vulnerable witness'. The provision of standard special measures will always be considered for them.

There is extensive guidance available on the subject.<sup>85</sup> The 2004 Act underpins the acceptance that oral evidence is no longer the only means by which testimony can be given by children.

## **Additional Legislation**

### [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#)

This introduced a number of principles which those discharging functions under the Act are required to observe, including a specific principle for the 'welfare of the child'. It requires that any functions under the Act in relation to a child with mental disorder should be discharged in a way that best secures the welfare of the child. In particular it is necessary to take into account:

- the wishes and feelings of the child and the views of any carers;
- the carer's needs and circumstances;
- the need to provide carers with information that could help them care for the patient;
- where the child is or has been subject to compulsory powers, the importance of providing appropriate services to that child; and
- the importance of the function being discharged in a manner that appears to involve the minimum necessary restrictions on the freedom of the child.



The Act is universal and applies to everyone with a mental disorder irrespective of age, but it introduced specific provisions in relation to children and has clear links to the Children's (Scotland) Act 1995. A range of powers and duties is in place for both health boards and local authorities to address the needs of children with mental health problems and with parent(s) who have mental health problems.

Key amongst specific provisions in the Act are:

- the requirement on health boards to provide certain services and accommodation for patients under 18 to help prevent young people being admitted to adult acute wards and improve the provision of specialist child focused services;
- the requirement on health boards to provide accommodation and services that will enable mothers with post-natal depression and who are in hospital to care for their child (of less than one year) in hospital, if they so wish;
- that all those discharging functions under the Act have a duty to “mitigate adverse effect of compulsory measures on parental relations”, whether it is the parent or child who has the mental disorder; and
- that education authorities have a duty to make arrangements for the education of pupils unable to attend school because they are subject to measures authorised by the Act or by other mental health legislation, as a consequence of their mental disorder.

#### [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#)

This is UK legislation and as such the subject matter is reserved. While immigration and asylum and the impact they may have on children and their families is a very broad topic, section 4 of this legislation relates to the offence of trafficking people for exploitation.

Immigration and asylum issues relating to unaccompanied children is a highly specialised aspect of the legislative framework. The potential for exploitation and vulnerability is high and it is important that specialist legal advice is sought, even in situations that appear straightforward. There are complex and contested processes of age-testing that seek to clarify the ages of unaccompanied children arriving in this country without identifiable information and paperwork. The Scottish Refugee Council can provide initial support and information to help guide workers through these processes.

### [Anti-social Behaviour \(Scotland\) Act 2004](#)

While the primary focus of this legislation may not be child protection in its most commonly regarded forms, it is important to remember the strong links between adult behaviour and outcomes for children and young people. This legislation allows for cases of anti-social behaviour to be referred to the Children's Reporter and for parenting orders to be applied to the parents of such children and young people. Bearing in mind the Kilbrandon principle of 'need not deed', this legislation could provide a way into the child protection arena for some young people.

### [Adult Support and Protection \(Scotland\) Act 2007](#)

This Act seeks to protect and benefit adults at risk of being harmed. The Act requires councils and a range of public bodies to work together to support and protect adults who are unable to safeguard themselves, their property and their rights.

Public bodies are required to work together to take steps to decide whether someone is an adult at risk of harm, balancing the need to intervene with an adult's right to live as independently as possible.

### [Adoption and Children \(Scotland\) Act 2007](#)

While this legislation made a number of changes to the administration of the adoption process in Scotland, it is the introduction of the Permanence Order that may have the most relevance for child protection processes. This order, which can be awarded to local authorities, allows for a greater degree of flexibility regarding a core of more permanent decisions about a child's care. The order allows responsibilities to be shared with carers by the local authority once the Permanence Order is in place and should be part of the single planning process for the child. Where it has been decided that, in order to safeguard and protect the child's welfare, it is no longer appropriate to consider returning a child to its birth family, a Permanence Order may provide the necessary stability without the child being placed within an adoptive family.

## [Equality Act 2010](#)

The UK Government's Equality Act 2010 provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. The Act restated and simplified 116 separate pieces of earlier equality legislation into one Act, the bulk of which came into force in October 2010.

The characteristics protected by the Act are:

- a. age
- b. disability
- c. gender reassignment
- d. pregnancy and maternity
- e. marriage and civil partnership
- f. race
- g. religion or belief
- h. sex
- i. sexual orientation.

It introduces several new measures:

- requiring public bodies to meet a new integrated Equality Duty;
- using public procurement to improve equality;
- banning age discrimination outside the workplace;
- requiring public bodies with more than 150 staff to publish gender pay gap information for their staff – publishing the percentage difference between men and women's average hourly pay;
- requiring public bodies to report on employment information about the number and characteristics of staff extending the scope to use positive action;
- strengthening the powers of employment tribunals;
- protecting carers from discrimination;
- clarifying the protection for breastfeeding mothers;
- banning discrimination in private members' clubs; and strengthening protection from discrimination for disabled people.

## **Public Sector Equality Duty**

The new public sector equality duty in the Equality Act 2010 came into force in April 2011. The duty places an obligation on public authorities (including NHS boards) to take action to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups and
- foster good relations between different groups.

## [The Forced Marriage etc. \(Protection and Jurisdiction\) \(Scotland\) Act 2011](#)

The Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act was passed by the Scottish

Parliament on 22 March 2011 and came into force on 28

November 2011, to provide a specific civil remedy for those threatened with forced marriage and those already in such a marriage.

A Forced Marriage is a marriage in which one or both parties do not (or, in the case of some adults with learning or physical disabilities, cannot) consent to the marriage and duress is involved. Duress includes both physical and emotional pressure. It is very different from arranged marriage, where both parties give their full and free consent to the marriage.

## [Sex Offender Community Disclosure Scheme](#)

Keeping Children Safe or the Sex Offender Community Disclosure Scheme is a process that allows any member of the public to make an application to Police Scotland if they have a concern about a person's access to a child. It is a slow time information sharing process.

Any disclosure will only be made to the parent, guardian or carer of that child.

The Sex Offender Community Disclosure Scheme does NOT change how Police Scotland will deal with child protection incidents, which will continue to be dealt with as a matter of operational priority. Disclosure will only take place after careful consideration and where children are deemed to be at risk. The scheme is not about disclosing general information on sex offenders.

## **APPENDIX 2: Arrangements for Child Protection in the Armed Forces**

Family life in the armed forces is, by its very nature, different to that in civilian life. The forces control the movement of the family and families often endure long periods of separation, without extended family support. Local authorities and other agencies should note these differences and be ready to share information with the service authorities when a service family becomes the subject of child protection inquiries. Each service has its own welfare organisation, and service authorities also provide housing for their families. Due to the frequency with which the families move, it is important that the service authorities are fully aware of any child who is deemed to be at risk within their family.

### **Royal Navy and Royal Marines**

The Royal Navy & Royal Marines Welfare (RN/RM Welfare) are staffed by registered social workers and trained and supervised welfare workers and provide a professional social work and welfare service to all naval personnel and their families. RN/RM Welfare also liaise with statutory social work services where appropriate, particularly where a child is subject to child protection concerns. Child protection issues involving a serving member of the Royal Navy or Royal Marines should be referred to the RN/RM Welfare Portal.

RN/RM Welfare Portal Team

Swiftsure Block

HMS NELSON

PORTSMOUTH

PO1 3HH

Tel: (Civ): 0044 (0)2392 728777

Fax: (Civ): 0044 (0)2392 725082

Email: [navypers-welfare@mod.uk](mailto:navypers-welfare@mod.uk)

### **Army**

When an Army family is subject to child protection procedures the unit welfare officer (UWO) and Army Welfare Service (AWS) will be involved and will be represented at meetings. It is important for any chair to understand the differences between these two roles:

- The UWO provides first line welfare. As the commanding officer's representative for the welfare of soldiers and families within the unit, they will respond to day-to-day welfare issues. At child protection meetings they can advise on the demands of the unit, forthcoming operational deployments or assignments and localised issues that could assist or hinder any Child Protection Plan. They may also be there to support the family. UWOs have limited training in child protection. The chair should therefore ascertain whether the UWO is attending the conference in order to support the family or as a fully participating member of the team.
- The AWS includes senior Army welfare workers (SAWW) and Army welfare workers (AWW). Both are specially trained social and occupational welfare and are professionally supervised; SAWWs are professionally supervised by qualified social workers. The service is Army-wide, which enables consistent support when families move location. AWS Personal Support provides advice and support to soldiers and families who are experiencing difficulties arising from personal relationships, separation, loss and bereavement, child and social problems. AWS is responsible for advising the chain of command on all welfare issues.

The AWS is the Army's representative in all matters of child protection and is responsible for notifying Army staffing personnel when a child is subject to and removed from a Child Protection Plan.

Representatives often sit on Child Protection Committees and carry out tri-service representation, giving them a full overview of policy and practice across child protection and the armed forces. AWS staff trained in child protection may be part of a Child Protection Plan where appropriate and agreed.

Unlike UWOs, S/AWWs have received significant training both in supporting personnel with personal or family difficulties and in child protection. SAWWs participate fully and regularly in child protection meetings and the decision-making process. They can also advise on the structure of the armed forces and make recommendations as to who else might need to be involved in a case (for example, armed forces' medical officers or the mental health social work team).

Other members of Army personnel may be involved in meetings. Other agencies such as the British Forces Social Work Service (which provides a statutory social work service on behalf of the armed forces overseas) may also attend where a family has been transferred from overseas and there are child protection concerns.

Local authorities with enquiries or concerns regarding child protection or the welfare of a child from an Army family should contact:

The Chief Personal Support Officer  
HQ AWS  
Floor Zone 2  
HQ Support Command  
Montgomery Hse  
Queens Avenue  
Aldershot  
GU11 2JN  
Tel 01252 787650  
E-mail [AWS-HQ-CPSO@mod.uk](mailto:AWS-HQ-CPSO@mod.uk)

## **Royal Air Force**

The Royal Air Force has an independent welfare organisation on each station.

Social work is managed as a normal command function and co-ordinated by each station's personnel officer. The officer commanding personnel management squadron (OC PMS) is supported by personal and families support workers/senior social work (P&FSW) practitioners SSAFA-Personal Support and Social Work Service (RAF). There are five teams in the UK and they are managed by qualified social work team managers. Where there are child protection investigations or concerns regarding the family of a serving RAF member the parent unit should be notified or, if this is not known, the nearest RAF unit. Every RAF unit has an officer appointed to this duty and they will be familiar with child protection procedures.

SSAFA  
Social Work Team Manager  
RAF Leuchars  
Tel: 01334 857962



## Service Families Overseas

For service families based overseas or being considered for an overseas appointment, the responsibility for safeguarding and promoting the welfare of their children is vested with the Ministry of Defence (MoD).

The MoD funds the British Forces Social Work Service (BFSWS) overseas which is contracted to SSAFA and provides a fully qualified social work and community health service in major locations overseas. Instructions for the protection of children overseas are issued by the MoD as 'Defence Council Instruction', Joint Service.

Larger overseas commands issue local child protection procedures, hold a command Child Protection Register and have a command Safeguarding Children Board.

Local authority social work departments should ensure that SSAF (and NPFS for naval families) are made aware of any service child who is subject of a Child Protection Plan, and whose family is about to move overseas.

Local authorities and other agencies should be aware of Service Sexual Prevention Orders (SOPOs) which place conditions (i.e. prohibitions and positive obligations) on those subject to the Orders and are made for the purposes of protecting members of the service community outside the UK.

In the interests of the child, SSAFA, BFSWS or NPFS can confirm that appropriate resources exist in the proposed location to meet identified needs. Full documentation should be provided and forwarded to the relevant overseas command.

All referrals should be made to:

The Director of Social Work

Health and Social Care

Queen

Elizabeth

House 4 St

Dunstan's

Hill

London

EC3R 8AD

tel: 020 7403 8783

fax: 020 7403 8815

For the Royal Navy and Royal Marines:

RN/RM Welfare Portal Team

Swiftsure Block

HMS NELSON

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Tel: (Civ): 0044 (0)2392 728777

Fax: (Civ): 0044 (0)2392 725082

E-mail: [navypers-welfare@mod.uk](mailto:navypers-welfare@mod.uk)

Comprehensive reciprocal arrangements exist for the referral of child protection cases to the appropriate UK local authorities in the event of either temporary or permanent relocation of children from overseas to the UK.