

## Guidance on Child Protection



## Foreward

The National Guidance for Child Protection in Scotland (2014) is explicit that everyone in Scottish society has an important part to play in preventing the abuse and neglect of children and young people and in responding to any situation where they think a child may be at risk of abuse or harm. The Scottish Government's 'Getting it right for every child' (GIRFEC) threads through all existing policy, practice and legislation affecting children, young people and families. It impacts on all services for children: building from universal services, to early intervention to intensive/acute services to support best practice and outcomes for children.

This Guidance provides the framework for Independent schools for promoting, supporting and safeguarding the wellbeing and protection of all children and young people. It is intended to assist Heads of Schools, Governors, Teachers and Support staff to apply their skills collectively and effectively to develop a shared understanding of their common objective – to support and protect children, particularly those who are most vulnerable. It also serves as a resource for staff giving guidance on practice and key issues in child protection.

It sets out:

- What constitutes a safe child-centred school
- The rights of children and young people to be protected.
- The need to have robust Recruitment and Selection Procedures which include Managing Allegations of Abuse against Staff.
- Guidance on the definitions and signs of child abuse.
- The roles and responsibilities of those working in Independent Schools for child protection.
- Good practice advice including Home Exchanges.
- What Independent Schools must do to fulfil their safeguarding and child protection responsibilities including what action to take if child abuse is suspected as well as information sharing.
- Advice on child protection in specific circumstances.
- A description of the Scottish Child Protection System and the roles of key agencies.

This guidance should be read in conjunction with each school's local authority's Child Protection Committee's Inter-agency Guidance, the Under-age Sexual Activity Protocol as well as guidance on 'Promoting the Wellbeing of Children & Young People affected by Parental Substance Misuse.'

This guidance has been written by Dr Susan Hamilton, Child Protection Consultant, in conjunction with SCIS.

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## 1. INTRODUCTION

In the refreshed National Guidance for Child Protection in Scotland (2014)<sup>1</sup>, the Scottish Government has articulated its vision for Scotland's children - that all children and young people<sup>2</sup> have the right to be cared for, protected from harm and abuse and to grow up in a safe environment where their rights are respected and their needs met. The guidance is also explicit in that everyone in Scottish society has an important part to play in preventing the abuse and neglect of children and young people and in responding to any situation where they think a child may be at risk of abuse or harm. It requires that all services for children and young people – Social Work (Children and Families), Health, Education, Police, Housing and Voluntary Organisations - adapt and streamline their systems and practices to improve how they work together to support children and young people and their families (see Appendix 1 - Definitions of Child, Parent and Carer).

Core principles, values and shared standards of practice form the foundation for effective child protection practice, and include key legislation and guidance, namely the UN Convention on the Rights of the Child<sup>3</sup> and GIRFEC<sup>4</sup> which is enshrined in the Children and Young People (Scotland) Act 2014.

Education staff have a crucial role to play in shaping the lives of children and young people. They have unique opportunities to interact with them in ways that are both affirming and inspiring and to ensure that they are safeguarded and protected. Procedures and guidance cannot in themselves protect children: a competent, skilled and confident workforce, together with a vigilant public, can. Child Protection is a complex system requiring the interaction of services, the public, children and families. For the system to work effectively, it is essential that everyone understands the contribution they can make and how those contributions work together to provide the best outcomes for children. This applies to all staff in schools generally, but with added force to schools with a boarding facility.

Education staff may be the first to be aware that families are experiencing difficulties in looking after their children.' (Para 182). They are uniquely placed as there are opportunities within the context of school life for identifying concerns that a pupil may be being abused or is at risk of significant harm which could otherwise pass unnoticed. As articulated in the National Guidance for Child Protection in Scotland: 'Education practitioners, school staff and staff in other learning settings play a crucial role in the support and protection of children as well as the development of their wellbeing. Teachers are likely to have the greatest level of day-to-day contact with children and so are well placed to observe physical and psychological changes in a child that could indicate abuse and to contribute to the assessment of vulnerable children.

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<sup>1</sup> National Guidance for Child Protection in Scotland 2014 <http://www.gov.scot/Resource/0045/00450733.pdf>

<sup>2</sup> The terms 'children' and 'young people' are used interchangeably throughout this guidance.

<sup>3</sup> UN Convention on the Rights of the Child <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

<sup>4</sup> Children and Young People (Scotland) Act 2014 <http://www.gov.scot/Topics/People/Young-People/gettingitright>

Pupils should be informed that it is legitimate for them to raise concerns with staff about their own wellbeing and protection. Parents/carers should be advised that it is legitimate for them to express concerns to the Child Protection Co-ordinator, the Head of School or a member of the Board of Governors if they feel that a child may be being abused or is at risk of harm.

### **1.1 Principles of Child Protection**

- Child protection is everyone's responsibility.
- Staff should work in partnership with parents/carers to promote the wellbeing, health and development of children and young people.
- All children and young people whatever their age, culture, racial origin, disability, gender, language, sexual orientation, gender reassignment,<sup>5</sup> religion or belief have a right to protection.
- All professionals should make sure their approach is child centred. This means they should consider at all times what is in the best interests of the child.
- Children and young people should be respected, listened to, and where there are concerns, staff must take the matter seriously and report on the day.
- Children have a right to express views on all matters which affect them should they wish to do so.
- Inter-agency communication, information sharing and partnership working is essential to ensure best outcomes for children. Schools should work with Social Work (Children and Family Services), the Police, Health Services and other services to promote the wellbeing and protection of children and young people and protect them from harm. This includes providing a coordinated approach of early intervention when additional needs of children are identified and contributing to inter-agency plans to provide support to children subject to Child Protection Plans.

### **1.2 Equality and Diversity**

Access to, and delivery of services, for children at risk should be fair, consistent, proportionate and focused on individual needs and best outcomes. Families from ethnic minorities may be unaware of services, and positive action is required on the part of all agencies to explain what may be available and how they may be accessed.

### **1.3 Review of this Guidance**

This Guidance will be regularly reviewed, with an annual up-date: in accordance with changes in legislation and guidance on the protection of children.

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<sup>5</sup> Schools should have in place guidance on Supporting Transgender Pupils which should be compatible with the Government's guidance: <https://www.lgbtyouth.org.uk/media/1293/supporting-transgender-young-people-digital-version.pdf>



## **2. RECRUITMENT AND SELECTION OF STAFF AND MANAGING ALLEGATIONS OF ABUSE**

### **2.1 Introduction**

The vast majority of adults who work with children in education settings act professionally and provide a safe and supportive environment which promotes the wellbeing and best outcomes for children in their care. It is therefore vital that schools create a culture of safe recruitment and, as part of that, adopt recruitment procedures that help deter, reject or identify people who might abuse children. All schools should also have written disciplinary rules and procedures to deal with employee performance and conduct. Staff should know and have received guidance on these including what is acceptable and unacceptable behaviour in the workplace and what action will be taken if there is a breach of the rules. The rules should follow the Acas code of practice on disciplinary and grievance procedures<sup>6</sup>. When staff disciplinary procedures are being formulated or reviewed, it is important that linkages are made between the Disciplinary Procedures and Child Protection Procedures so that there is clarity about the purpose and justification of any particular action taken by the school management. There should be a separate policy on the Recruitment and Vetting of Volunteers. Templates are provided on the Volunteer Scotland website.<sup>7</sup>

### **2.2 Recruitment and Selection Procedures**

Employers should prevent people who pose a risk of harm from working with children by adhering to statutory responsibilities to check staff who work with children and if necessary taking proportionate decisions on whether to ask for any checks beyond what is required. Schools therefore need to ensure the above procedures are robust and include the Protecting Vulnerable Groups (PVG) Scheme<sup>8</sup> to ensure best practice is in place to safeguard and protect children and vulnerable adults. A PVG Scheme Check is one of a number of recruitment tools available to assess the suitability of a person to work with children. It should form one part of a robust recruitment and selection process.

Employers should not allow unsupervised access to children before completion of all checks and these procedures should not be waived. The overriding responsibility for schools is to protect the children or vulnerable adults in their care. Recruitment and Selection Procedures should include:

- a) Detailed job descriptions** - Application forms should be specifically designed for the post in question, together with clear detailed job and role descriptions and responsibilities, person specifications and information about the institution in which the

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<sup>6</sup> [http://www.acas.org.uk/media/pdf/k/b/Acas\\_Code\\_of\\_Practice\\_1\\_on\\_disciplinary\\_and\\_grievance\\_procedures-accessible-version-Jul-2012.pdf](http://www.acas.org.uk/media/pdf/k/b/Acas_Code_of_Practice_1_on_disciplinary_and_grievance_procedures-accessible-version-Jul-2012.pdf). This is recommended by Disclosure Scotland.

<sup>7</sup> <https://www.volunteerscotland.net/for-organisations/guidance/all-guidance-and-templates/>

<sup>8</sup> <https://www.mygov.scot/organisations/disclosure-scotland/>

job is based. The job description should contain a clear remit against which a candidate's qualifications should be checked.

- b) Identity checks and verification of documents** - Employers should ask for verification of ID (e.g. Driving Licence/Passport) and educational/professional qualifications. These should be the originals and not photocopies. Where appropriate, they should verify the person's right to work in the UK. If there is uncertainty about whether an individual needs permission to work in the UK, then employers should follow the advice given by the UK Government.<sup>9</sup>
- c) Self Declaration** - This should be part of the school's Application Procedure.
- d) References** - Candidates should provide full employment (and unemployment) histories, with names and addresses of present and past employers. Candidates should provide a minimum of two referees (who should not be related to them) and one must be their current/last employer. Employers should always approach an applicant's present/last employer and should reserve the right to approach any previous employer (or line manager) about a short listed candidate's character and performance before interview. Written references should be requested on the basis that referees have the job description and person specification and are encouraged to comment frankly on the short-listed candidate's strengths and weaknesses in relation to their suitability to work with children. Where necessary employers should:
- explore any aspects of references by telephone with a current or past employer;
  - keep a record of conversations with referees;
  - pass the information to those responsible for making the appointment;
  - retain records of any disciplinary action/offences or concerns relating to the member of staff.
- e) Appropriate PVG Membership** - Disclosure Scotland's primary objective is to provide an accurate and responsive disclosure service which enhances public safety through enabling safer recruitment decisions. It also delivers protection services through the PVG Scheme which is a membership scheme for those individuals in 'regulated work' with children and protected adults. Most employees in schools will be in 'regulated work'. It helps make sure people whose behaviour makes them unsuitable to work with children and/or protected adults cannot do 'regulated work' with vulnerable groups. The core functions are largely defined by legislation under the Protection of Vulnerable Groups (Scotland) Act 2007 (PVG). Disclosure Scotland checks the individual's criminal history information held in the UK as well as from some European countries.
- f) Applicants Outside the United Kingdom** - Individuals who have lived or worked outside the UK must undergo the same checks as all other prospective staff, including PVG. In addition, schools must make any further checks they think appropriate so that any

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<sup>9</sup> <https://www.gov.uk/check-job-applicant-right-to-work>

relevant events that occurred outside the UK can be considered. Overseas applicants for teaching posts will be checked to discover whether they are known to UK information sources<sup>10</sup> and membership of the Scheme will ensure that any new information about them is picked up and dealt with quickly. If schools wish to obtain more information they should contact either the Foreign Office<sup>11</sup> or the Centre for National Infrastructure (CPNI). The latter site provides details of what information is available on disclosures of criminal records, the status of that information, who can apply and whether there is a cost in numerous overseas jurisdictions.<sup>12</sup>

**g) Referrals to the PVG Scheme and other Regulatory Bodies** - Where an employer takes disciplinary action to remove an individual from regulated work as a result of harmful behaviour towards a child or vulnerable person, then they have a duty to refer the individual to the PVG Scheme so that consideration can be given to whether that individual should be barred from any kind of regulated work with vulnerable groups. Harmful behaviour is not restricted to unlawful criminal conduct. It includes other forms of conduct which may not be recognised as a criminal offence but nonetheless might result in harm, or risk of harm, to vulnerable groups such as the inappropriate use of restraint. A full assessment will be undertaken on referrals before a listing decision is made. Both the individual and the referring organisation will have the opportunity to make representations to the PVG Scheme. It is an offence to employ a person who is barred.

Schools will also have the responsibility of notifying the General Teaching Council for Scotland<sup>13</sup> or other relevant professional body. Schools are also encouraged to keep the Registrar of Independent Schools<sup>14</sup> informed of any issues relating to safety and protection of children and young people.

Employers remain responsible for safe recruitment practice, including checking identity, references, background and verifying documentation prior to appointment.

**h) Preliminary interviews and visits** - Where relevant, there should be preliminary interviews of short-listed candidates and visits to the school to meet staff and pupils in advance of the final interview. This will enable a fuller picture of the character and attitudes of short-listed candidates and the interaction between candidates, staff and pupils. All interviews should include a question/questions on child protection depending on the post being applied for.

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<sup>10</sup> <http://www.gtcs.org.uk/registration/pvg-scheme-overseas-checks.aspx>

<sup>11</sup> <https://www.gov.uk/government/organisations/foreign-commonwealth-office>

<sup>12</sup> <https://www.cpni.gov.uk/system/files/documents/42/ca/how-to-obtain-an-overseas-criminal-records-check.pdf>

<sup>13</sup> <http://www.gtcs.org.uk/registration/registration.aspx>

<sup>14</sup> <https://beta.gov.scot/publications/independent-schools-in-scotland-register/>

- i) **Induction*** - All staff members should be aware of child protection policies and procedures within their school which support the wellbeing and protection of children and these should be explained to them as part of staff induction. This should include:
- A summary of the Child Protection Policy including the role of the Child Protection Coordinator. This could be a simple Flowchart detailing what action staff should take and to whom they should report.
  - Code of Conduct (see 2.4). This should be signed for.
  - Support and supervision.
  - Relevant Child Protection training.
- j) **Trial period*** - It may be possible to appoint the successful candidate on a trial basis. All new appointees should be monitored, provided with a mentor and given feedback on their performance.
- k) **Supply staff for Teaching posts*** - Schools should check written confirmation has been received from the employment business supplying the member of staff and that they have carried out the relevant PVG checks and obtained the appropriate certificates including the date that confirmation was received. They should also be GTCS registered.

## **2.3 Appointment of Governors**

All schools must ensure that any new appointment is made under the Protection of Vulnerable Groups (PVG) Scheme and that Governors are registered Scheme members. Although the Governor may never have contact with children, a School Governor is in a regulated position of trust under the PVG Act. (See Section 5.5 regarding good practice).

## **2.4 Code of Conduct for Staff**

Staff are responsible for their own actions and behaviour and should avoid any conduct which would lead any reasonable person to question their motivation and intentions. Staff interactions with pupils must be transparent and they should always be wary of allowing situations to develop which could lead to allegations of impropriety. The following guidance is offered as a starting point for further development through training and may be incorporated into a standalone Code of Conduct that should be issued separately to all staff and signed for. A record should be kept.

### **2.4.1 Physical Touch**

The climate of suspicion that has developed with regard to child abuse poses a real dilemma for caring adults. This is true in all schools but especially so in boarding situations where schools take a pride in fostering a family atmosphere. In order to protect children from abuse, and staff from suspicions of abuse, the natural inclination to comfort and reassure children through physical contact needs a considered assessment of the situation. This does not mean that physical contact is never permissible. It does mean that adults touching children must operate

within understood limits, and that contact outside those limits must be a considered response which can be justified if necessary. Where those limits lie will vary according to the age of the child and the role and responsibilities of the member of staff. A young child in a boarding situation may well require to be comforted and reassured. Any touching or comforting should be age appropriate, context specific, preferably done within vision of others and prompted by the needs of the child not those of the staff. Common sense is a good guide, but it must be informed common sense.

One would expect the need and desirability of such contact with older pupils, especially day pupils, to be considerably less, although even in these circumstances situations could arise in which it would be a natural and human occurrence. The death of a pupil, for example, might make it natural for pupils and teachers to grieve together and touching would be neither unusual nor undesirable, so long as it was agreeable to both parties and limited. It would be impossible to lay down rigid rules about what is, and is not, permissible. Awareness-raising through in-service training should provide opportunities for staff to explore acceptable limits through discussion of case scenarios. It is important for caring adults to understand that too generous limits which can be operated satisfactorily by some can be exploited by others with less worthy motives. The difficulty in laying down clear limits makes it all the more important that schools make every effort to ensure that all staff who have contact with pupils are carefully selected and all appropriate checks completed.

#### **2.4.2 One-to-One Situations**

Opportunities for abuse exist in all schools, especially boarding schools, and in one-to-one situations, e.g. tutorials, music lessons, one-to-one tuition, guidance interviews, sick rooms. The simplest advice would be to try, as far as possible, to avoid being alone with a child or young person. However, for some staff this is unrealistic as the context of their job is teaching in one-to-one situations, e.g. Instrumental Music Instructors. This may also prove difficult, especially in a boarding situation, where it might be seen as beneficial for a child to have some opportunity for one-to-one contact with an adult.

Good Practice Advice:

- Where one-to-one contact is appropriate, it should be officially timetabled and, where possible, held with others around or within earshot or view of others.
- Never have the door locked and, wherever possible, maintain a gap/barrier between you and the child.
- Another member of staff should be aware of any meeting and its purpose.
- If possible, doors should have built-in windows.
- Do not meet pupils off school premises for personal reasons.
- Do not invite pupils to your home.
- In order to protect pupils and prevent conflict of interest, it is not recommended that pupils babysit/childmind the children of staff.

- Most one-to-one meetings will be straightforward and uneventful. But where the meeting is difficult, fraught, tense, and accusatory or the pupil becomes distressed, the adult must record details and inform a senior manager of the incident.
- If in doubt about a meeting, agree that a colleague will be nearby.
- School trips/excursions out of the school, especially residential stays, can provide opportunities for abuse. The trip should be authorised and where relevant appropriate PVG checks undertaken and risk assessments completed.<sup>15</sup>

### **2.4.3 Physical Intervention and Restraint**

- Physical contact should only be for the purpose of care, instruction, health and safety, physical intervention or restraint<sup>16</sup>.
- Avoid any physical horseplay, with a child, or any other actions another adult or child might misinterpret, no matter how innocent or well-intentioned the actions might be.
- Staff should always be able to justify resorting to physical intervention in any situation. The nature of the contact should be limited to what is appropriate and proportionate.
- Where possible, initial responses should be to de-escalate and divert before considering physical intervention or restraint. Staff should avoid restraining a child by putting their hands on a child's joints. Where possible, another member of staff should be summoned to witness and give support. As soon as the child is under control, staff should cease any physical contact. All incidents of physical intervention or restraint should be logged, dated and signed in a log kept for that purpose.
- The use of physical restraint on a child should involve the absolute minimum force reasonable to the situation and is only permissible when certain that a child is at imminent risk of endangering themselves or others (or in extreme circumstances of inflicting damage to property).

### **2.4.4 'Hands on' Educational Instruction**

- 'Hands on' educational instructions or support should only be used when verbal or role-modelling is insufficient or it is necessary for health and safety reasons. Whenever possible, this should be done within earshot, and preferably within view, of others.
- Where 'hands on' is necessary you should seek the young person's permission appropriate to their age and level of understanding and explain to them what you are about to do.

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<sup>15</sup><https://www.goingoutthere.co.uk/>

<sup>16</sup> Some Special Schools staff will be specifically trained and certificated in the appropriate use of different methods of restraint. Holding Safely: National guidance on the use of physical restraint in residential child care - with 2013 update <http://www.gov.scot/Topics/People/Young-People/protecting/lac/residentialcare/Publications/MPRRCC>

#### **2.4.5 Verbal Remarks**

- Positive relationships between staff and children often involve warmth and humour and ‘banter’ but staff should be aware that there can be a narrow line between remarks which an adult perceives as fair and humorous but which can be hurtful and embarrassing to a child.
- Salacious or demeaning remarks should never be made to, or in the presence of, children and young people. Remarks about a child’s physical characteristics or development, or suggestive or derogatory comments could fall into this category.
- Staff should avoid making unfavourable comparisons to a child and ‘picking on’ particular children.

#### **2.4.6 Communication with Pupils via E-Technology and Social Media**

- Any communication via E-technology with pupils should be in line with school policy, for educational purposes and approved by the senior management of the school.
- A teacher can be vulnerable to unintended misuse of electronic communication. Email, texting and social media encourage casual dialogue and very often, innocent actions can easily be misconstrued or manipulated. A member of staff should never share information with pupils in any environment that they would not willingly or appropriately share in a school or school-related setting.
- Further advice for teachers is provided by the General Teaching Council for Scotland.<sup>17</sup>

#### **2.4.7 Relationships with Pupils**

- Unless staff have already established relationships with a pupil(s) through friendships with parents or with their own children, they should not have contact with pupils for the purpose of securing a personal friendship or relationship.
- Staff need to be aware that it is not uncommon for pupils to be attracted to/infatuated by a member of staff. Staff should also be aware that such circumstance can carry a high risk of words or actions being misinterpreted and for allegations to be made.
- Any sexual behaviour with, or towards a child or young person, is both inappropriate and illegal and could constitute a ‘Breach of Trust’ offence.
- In circumstances where you or a member of staff’s relationship with, or feelings towards, a child or young person are at risk of being construed as unprofessional behaviour, you should seek advice and support from your Head/Child Protection Co-ordinator so that appropriate action can be taken.
- If it seems that a young person is becoming inappropriately attached to you or to another member of staff, you should share your concerns and seek advice from your Head/Child Protection Co-ordinator.

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<sup>17</sup> *GTCS Professional Guidance on the Use of Electronic Communication and Social Media*  
<http://www.gtcs.org.uk/web/FILES/teacher-regulation/professional-guidance-ecomms-social-media.pdf>

#### 2.4.8 Whistle Blowing

- Whistleblowing is the mechanism by which staff can voice their concerns made in good faith, without fear of repercussion.
- In working with children and young people, it is possible for staff, through ill-considered actions, to lay themselves open to allegations of abuse. Their best protection is to encourage a climate of respect and openness within the classroom and school community where pupils feel confident to point out aspects of behaviour they do not like.
- If another member of staff is seen to behave inappropriately with a child, do not ignore it but share it with the Head/Child Protection Co-ordinator.
- If the concern is about the Child Protection Co-ordinator it should be reported to the Head and if it is about the Head it should be reported to the Chair of the Board of Governors.

#### 2.4.9 Transporting Children and Young People

- In certain situations staff may agree to transport children. This should be approved by management. Wherever possible and practical, it is advised that transport is undertaken other than in private vehicles with at least one adult additional to the driver. Where a member of staff's own vehicle is used, they should ensure that they are insured for the purpose and wherever possible children should be in the back seat.

#### 2.4.10 Inappropriate or Abusive Behaviour

The list below is presented to show some of the ways in which inappropriate behaviour or abuse may be manifested. It is important to recognise that this list is neither definitive nor exhaustive, nor is it meant to suggest that all the actions below are in themselves abusive: they must be seen in the context of the interaction with the child and the intention of staff. Staff should bear these in mind as a way of minimising risk and encouraging good practice. Staff must always exercise professional judgement in each circumstance.

<b>Physical</b>	Hitting/tapping/shaking
	Pushing/jabbing
	Throwing missiles
<b>Emotional</b>	Inappropriate/systematic sarcasm
	Isolating e.g. locked room
	Unfavourable comparisons
	Threats
	Intimidation
	Scapegoating
<b>Sexual</b>	Systematic personal criticism
	Inappropriate contact by E-technology
	Any sexual activity with a pupil



Inappropriate touching/comforting  
Suggestive remarks or gestures  
Sexual harassment  
Indecent materials  
Grooming a child for abuse  
Any inappropriate online contact including sending indecent images

From time to time, all staff should reappraise their relationships with pupils and ask themselves: 'Are my actions fair, reasonable, warranted, proportionate, measured, safe and applied equitably?' to ensure that they give no grounds for any doubts in the minds of colleagues, pupils or parents. For the vast majority of staff a Code of Conduct will serve only to confirm what has always been best practice.

## **2.5 Allegations of Abuse against Staff**

The procedures for dealing with allegations of abuse need to be applied with common sense, proportionality and judgement. Employers have a duty of care to their employees. They should ensure they provide effective support for anyone facing an allegation and provide the employee with a named contact if they are suspended. It is essential that any allegation of abuse is dealt with quickly, in a fair and consistent way that provides effective protection for the child and, at the same time supports the person who is the subject of the allegation. Allegations may be genuine, malicious or misplaced. They may arise from differing perceptions of the same event, but when they occur, they are inevitably distressing and difficult for all concerned.

### **2.5.1 Where the Allegation Suggests Possible Child Abuse**

Any allegation of child abuse against a member of staff must be taken seriously and acted on. The Head of School and Child Protection Coordinator should be informed immediately. If the person is deemed to be an immediate risk to children or there is evidence of a possible child abuse, advice should be taken by either the Child Protection Coordinator or the Head of School from the police, on the day (including what the member of staff can be told) before anyone is questioned to ensure best evidence is preserved. If the police inform the school that they are proceeding with a criminal investigation, advice should be taken from the Investigating Officer what information (either orally or in writing) can be given, and when, to the member of staff involved in the allegation. The Chair of the Board of Governors should be informed by the Head of School as a matter of urgency.

The Head of School should organise an inter-agency strategy meeting and take advice from police and Social Work (Children and Family Services) and agree the following:

- who needs to know and, importantly, exactly what information can be shared;
- how to manage speculation, leaks and gossip;
- what, if anything, can be shared with parents.

### **2.5.2 Where the Allegation Does Not Meet the Criteria at 2.5.1**

If the information is unclear, the basic facts should be established using open-ended, non-leading questions and a decision made as to what action the school needs to take. If during the establishing of the basic information, it becomes clear that the status of the initial information has changed (e.g. the person is deemed to be an immediate risk to children or there is evidence of a possible child abuse) or if you have any doubt, you should follow the guidance at 2.5.1 and take advice from the police.

Where the information does not suggest child abuse, the context of the interaction between the member of staff and pupil and the intent of the member of staff should inform the initial assessment. Where the allegation concerns inappropriate behaviour by a member of staff, it may be appropriate to invoke the school's staff disciplinary procedures. The member of staff should always be informed that such an allegation has been made.

### **2.5.3 Supporting the Member of Staff**

Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is vital to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action (with the provisos outlined at 2.5.1). The individual should be advised to contact their Professional Association/Trade Union representative, if they have one, or a colleague for support. They should also be given access to counselling or medical advice where this is provided by the employer.

Particular care needs to be taken when employees are suspended to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence. If so, this should be discussed with the Investigating Officer in the police.

The Scottish Government issued advice <sup>18</sup> on reporting restrictions preventing the publication of any material that may lead to the identification of any member of staff in a school who has been accused by a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence. The reporting restrictions are lifted if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so.

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<sup>18</sup> [http://www.careinspectorate.com/images/documents/114/Teacher%20Anonymity%20-%20Guidance%20Note%20for%20issue%20to%20Directors%20\(280911\).pdf](http://www.careinspectorate.com/images/documents/114/Teacher%20Anonymity%20-%20Guidance%20Note%20for%20issue%20to%20Directors%20(280911).pdf)

#### 2.5.4 Precautionary Suspension

Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children at the school or whether alternative arrangements can be put in place until the allegation or concern is resolved. All options to avoid suspension should be considered prior to taking that step. The school will have to consider the need to ensure that children are protected while an allegation is under investigation. A precautionary suspension, without prejudice to the member of staff, for the duration of the investigation, should be considered by the Head of School and Chair of Governors in cases where:

- there is cause to suspect or believe a pupil or pupils are at risk of harm;
- the allegation warrants investigation by the police;
- the allegation is so serious that it might be grounds for dismissal.

The police or Social Work (Children and Family Services) cannot require the Head of School to suspend a member of staff. The power to suspend is vested in the Governors. However, where the initial evaluation or an inter-agency discussion concludes that there should be enquiries by Social Work (Children and Family Services) and/or an investigation by the police, the Head of School as part of a risk assessment should seek the views of the Investigating Officer and Social Worker about whether the member of staff needs to be suspended from contact with children in order to inform consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.

In the event of a member of staff being suspended while investigations are taking place, the school should consider whether it may be advisable to inform all parents or carers of children with whom the staff member concerned has had contact. As the matter will be *sub judice* advice should be sought from the Investigating Officer in the police who may need to discuss the matter with the Procurator Fiscal.

Where the member of staff concerned has had contact with a number of children, consideration should be given to the possibility that others may also have been abused. If a decision is made to suspend the member of staff, there should be no delay in taking action, including during school holiday periods. The member of staff should be informed immediately and informed that there should be no contact with pupils for the duration of the investigation.

In the infrequent event of a second allegation being made, the school would have to consider informing all parents. Experience has shown that, once rumours and misinformation start to circulate, a lack of openness can lead to a loss of trust between parents and the school and a breakdown in relationships. If there is enough suspicion of multiple abuse to justify enquiries being made of other children and families by Police and Social Work (Children and Family Services), the school will wish to ensure that it is seen to be co-operating and responding appropriately to the legitimate concerns of parents or carers. In this situation, legal advice

should be taken about the terms of any letter to be sent to all relevant parents or carers, and the terms of response to any enquiries from the press. Where the matter is *sub judice*, no letter should be sent to the parents or carers without clearing it with the Investigating Officer in the Police who may need to clear it with the Procurator Fiscal. A delicate balance has to be maintained between openness and confidentiality, which respects rules of law about matters which are under investigation.

In cases where abuse of more than one child is suspected, the school should, after consulting Police, Social Work and the Procurator Fiscal about compliance with legal requirements, consider seeking counselling for individuals affected.

Should the allegations be proven, parents or carers should be informed of the facts and of the action taken by the school. If, after Police and Social Work (Children and Family Services) investigation, there is felt to be insufficient evidence for prosecution, or where a prosecution does not result in a conviction, disciplinary action against the member of staff may still be taken, if the member of staff is considered to represent a risk to a child or children or their behaviour has caused concern. A referral to the PVG Scheme may be appropriate in some circumstances (see Section 2.2g).

#### **2.5.5 Allegations against the Head of School**

In cases where the member of staff against whom the allegation is made is the Head of School, the Chair of Governors should be informed as a matter of urgency. It will be the responsibility of the Governors to consider the matter and take appropriate action and follow this Guidance. Governors are advised to take independent advice on the matter to avoid any suspicions of a 'cover-up'.

#### **2.5.6 Unfounded Allegations**

If after due consideration, the conclusion is that the allegation is completely unfounded, the decision to take the matter no further should be recorded, together with the reasons for it, and the information placed in a confidential file.

If an allegation is shown to be deliberately invented or malicious, the Head of School, should consider whether any disciplinary action is appropriate against the pupil who made it or whether the police should be asked to consider if action might be appropriate against the person responsible, even if he or she were not a pupil. The Child Protection Coordinator should refer the matter to Social Work to determine whether the child concerned is in need of services, or may have been abused by someone else.

The member of staff may wish to seek advice and support from their professional association in these circumstances.

### **2.5.7 Abuse of Trust**

Part 5 of the Sexual Offences (Scotland) Act 2009 covers the abuse of trust offence whereby a person aged 18 or over engages in sexual activity with a person under that age if the person aged 18 or over is in a position of trust in relation to the younger person. The definitions of when a person is in a 'position of trust' would include all staff in schools. Schools should ensure that all staff, including Exchange Teachers and Gap Students, are aware of their responsibilities and boundaries of relationships with pupils.

### **2.5.8 Confidentiality**

It is extremely important that when an allegation is made, the school makes every effort to maintain confidentiality and guard against unwanted publicity while an allegation is being investigated or considered.

If the member of staff resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with this guidance. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the protection of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the member of staff should be given a full opportunity to answer the allegation and make representations about it. The process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all the information available should continue even if that cannot be done or the member of staff does not cooperate. It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person's period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

Settlement agreements' (sometimes referred to as compromise agreements), by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, should not be used in cases of refusal to cooperate or resignation before the person's notice period expires. Such an agreement will not prevent a thorough police investigation where that is appropriate.

### **2.5.9 Record Keeping**

Details of allegations that are found to have been malicious should be removed from Personnel Records. However, for all other allegations, it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned. These should be held in line with the General Data Protection Regulation (GDPR).<sup>19</sup>

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<sup>19</sup> <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

The purpose of the record is to enable accurate information to be given in response to any future request for a reference. In addition, where appropriate adhere to Duty of Candour legislation<sup>20</sup>. It will provide clarification in cases where future PVG checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if, as sometimes happens, an allegation re-surfaces after a period of time. The record should be retained at least until the member of staff has reached normal pension age or for a period of 10 years from the date of the allegation if that is longer. The Information Commissioner has published guidance on employment records in its Employment Practices Code and supplementary guidance, which provides some practical advice on record retention.<sup>21</sup>

Cases where an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious should also not be included in any reference.

#### **2.5.10 Non-recent Allegations of Abuse (previously known as ‘Historical’ Abuse’)**

Refer to Section 7.22 - ‘Specific Circumstance Advice.’

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<sup>20</sup> <http://hub.careinspectorate.com/knowledge/policy-and-legislation/policy-portals/duty-of-candour/#Overview>

<sup>21</sup> [https://ico.org.uk/media/for-organisations/documents/1064/the\\_employment\\_practices\\_code.pdf](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf)

### **3. WHAT IS CHILD ABUSE AND CHILD NEGLECT?**

#### **3.1 Definition of Abuse**

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 (see section 11 which outlines indicators of potential risk where specific circumstances may impact adversely on children).

#### **3.2 Types of abuse**

##### **3.2.1 Physical Abuse**

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 (for further information, see section 11.10 on Fabricated or Induced Illness).

##### *The Law and Parental Chastisement*

The Criminal Justice (Scotland) Act 2003 clarifies that a person may claim that an act was physical punishment carried out in exercise of a parental responsibility or of a right derived from having charge or care of the child. Courts will need to consider:

- the nature of what was done, the reason for it and the circumstances in which it took place;
- its duration and frequency;
- any effect whether physical or mental which it has been shown to have had on the child;
- the child's age;
- the child's personal characteristics including sex and state of health at the time;
- the intent of the parent or carer.

Then the court must determine that it was not something that as part of a parental right or responsibility could be determined to be a justifiable assault.

### ***Non-independently mobile infants***

Bruising is the most common presenting feature of physical abuse in children. Although bruising is not uncommon in older, mobile children, it is rare in infants that are non-mobile and includes those not yet crawling, cruising or walking independently, particularly those under the age of six months and in some cases to 9 months. While up to 60% of older children who are walking have bruising, it is found in less than 1% of non-independently mobile infants. Significant Case Reviews<sup>22</sup> and individual child protection cases across the UK have indicated that practitioners have sometimes underestimated or ignored the highly predictive value for abuse of the presence of bruising in infants who are not independently mobile.<sup>23</sup> As a result, there have been a number of cases where bruised children have suffered significant abuse that might have been prevented if action had been taken at an earlier stage.

Bruising is the most common accidental injury experienced by children, and research shows that the likelihood of a child sustaining accidental bruising increases with increased mobility. It is extremely rare for a non-mobile infant to sustain accidental bruising. Therefore, in such a situation, advice should be sought.

#### **3.2.2 Emotional Abuse**

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.

#### **3.2.3 Sexual 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 consented. 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, pornographic material or in watching sexual activities, using sexual language towards a child or encouraging children to behave in sexually inappropriate ways.

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<sup>22</sup> <http://www.gov.scot/Publications/2015/03/3777>

<sup>23</sup> <https://www.nice.org.uk/guidance/CG89>



Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children. The sexual abuse of children by other children is a specific safeguarding issue in education

### ***Keeping Children Safe: Information Disclosure about Child Sexual Offenders***

The above Scheme<sup>24</sup> enables parents, carers or guardians of children under 18 years old to make a formal request for the disclosure of information about a named person who may have contact with their child if they are concerned that he or she might be a registered child sexual offender e.g. if a single mother wants to find out more about her new boyfriend.

It does not replace checks completed by Disclosure Scotland.

#### **3.2.4 Neglect**

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, failing 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 non-organic 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.

Recent research<sup>25</sup> explored issues that arise for social workers around discovering and confronting parental neglect in affluent families. Some key messages from the research were:

- The vast majority of the cases described by the participants concerned emotional neglect, although other forms of maltreatment, such as sexual abuse and child sexual exploitation were also identified.
- Commonly encountered cases involved struggling teenagers in private fee-paying and boarding schools, who were often isolated from their parents physically and emotionally and had complex safeguarding needs.
- All of the participants described difficulties in maintaining focus on the child because of the way that parents used their status and social capital to resist child protection

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<sup>24</sup> <http://www.gov.scot/Publications/2011/04/06091313/1>

<sup>25</sup> <https://www.gold.ac.uk/media/documents-by-section/departments/social-therapeutic-and-comms-studies/Report---Neglect-in-Affluent-Families-1-December-2017.pdf>

intervention and many also displayed a sense of entitlement to do as they pleased and that they know best.

- Participants consistently cited that highly resistant parents were more likely to use legal advocates or the complaints procedure to challenge social workers. All of the participants also experienced the challenges of interagency working with private fee-paying and boarding schools when child protection concerns were raised.

### **3.3 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 e.g. 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 e.g. 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 protect adequately the child in the future without the support of a Child Protection Plan.

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

‘Harm’ means the ill treatment or the impairment of the health or development of the child, including 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.

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.

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 that when considering the presence or likelihood of significant harm that the impact (or potential impact) on the child takes priority and not

simply the alleged abusive behaviour. There are no absolute criteria for judging what constitutes significant harm. Sometimes, a single traumatic event may constitute significant harm; 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 who find communication difficult because of their age, impairment or particular psychological or social situation. It is important to observe what children say as well as to bear in mind that children may have a strong desire to be loyal to their parents or 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. Where a child is thought to be at risk of significant harm, the primary concern will be for their safety.

## **4. INFORMATION-SHARING AND RECORDING: CHILD PROTECTION CONCERNS**

### **4.1 Introduction**

Schools should provide clear guidance for staff on sharing information. This should include advice on sharing information about adults who may pose a risk to children, dealing with disputes over information-sharing and clear policies on whistle-blowing. As highlighted at 1.1 - Principles of Child Protection, sharing appropriate information is essential to safeguarding children and young people. To secure the best outcomes for them, staff need to understand when it is appropriate to share information, how much information to share and what to do with that information. Staff also need to consider, from and with who, information can, and should, be sought and/or shared. This applies not only between different agencies, but also within schools.

### **4.2 Information Sharing - Child Protection**

#### **General Principles**

- As a general principle, children and their families have a right to know when information about them is being shared. However, where agencies are acting in fulfillment of their statutory duties, it is not necessary or appropriate to seek consent – e.g. where a referral is made to the Reporter under the Children's Hearing (Scotland) Act 2011, the consent of a child and/or parents or carers should not need to be sought prior to the submission of a report. There is an important distinction between making the child aware that information will/may be shared and seeking their consent for that sharing. It is perfectly acceptable and lawful for services to share information, where there is an indication that a child is at risk of significant harm or abuse relevant information must always be shared. Under such circumstances consent is not required.
- The best interests of the 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.
- 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 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.

### **4.3 Is there a Legal Duty to Report Child Abuse?**

Police officers and designated local authority employees (normally social workers) have a legal duty to pass information to the Reporter if they consider that a child may need compulsory

measures of supervision. Police also have a legal duty to pass information to the Procurator Fiscal in connection with the commission of offences.

In extreme cases, for example when there are suspicions that a child might be being abused in a boarding establishment, and these are not reported to the statutory authorities, this could constitute criminal neglect. With regard to other cases the law is not so clear. It may be that a child could take action against a teacher for failing to act upon the child's disclosure or upon justified concerns which had been expressed to the teacher. Similarly, an action could be raised against an individual, or more likely a school, for turning a blind eye to, or failing to protect a child from bullying.

#### **4.4 Actions for Defamation**

Concerned adults are sometimes reluctant to report suspicions of abuse for fear that the person suspected will sue them for defamation if the allegation turns out to be unfounded. To be defamatory, a statement must first of all be untrue. Even if subsequently shown to be untrue, the statement will be protected by 'qualified privilege' if it is made to the appropriate authority 'in response to a duty, whether legal, moral or social or in the protection of an interest.'<sup>26</sup> Unjustified repetition of the allegations to other persons will not be protected by privilege. The qualification on privilege refers to statements motivated by malice. If a statement, even to the appropriate authority, can be shown to be not only untrue, but motivated by malice, then an action of defamation could be successful.

#### **4.5 Breach of Confidence**

If certain conditions are met, information may be regarded as confidential and passing it on without permission could lead to an action for breach of confidence. The law is not wholly settled but it would seem likely that information would be regarded as confidential if:

- the information disclosed was confidential in character (not, for example, a matter of public record, such as a person's age);
- disclosure has caused or would cause actual harm to the person whose confidence was breached; and
- one could infer from the circumstances that the confider did not want the information passed on.

If all of these conditions are satisfied and an action is raised for breach of confidence, it would be a defence to show that the information was passed on in pursuit of the public interest. As there is a clear public interest in the protection of children, it is difficult to envisage any such action succeeding.

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<sup>26</sup> Norrie, K. *Defamation and Related Actions in Scots Law* (1995)

Schools should have a clear policy on confidentiality, which takes account of legal and professional obligations, and is made known to Governors, staff, parents and pupils (see Appendix 2 - Sample Policy on Confidentiality for Schools and Confidentiality Statement for Pupils).

#### **4.6 Recording Information**

Decision-making depends on having sufficient, succinct, accurate and accessible records. A distinction should always be made between facts, hearsay and opinion.

Child Protection files should be kept separate from a Pupil's Educational Record, clearly labelled on the front as 'Confidential - Child Protection'. A chronology<sup>27</sup> should be at the front of the file and separate sections should be kept to make for easy access to relevant forms/reports e.g. Child Protection Referral Forms, Child Protection Case Conferences and Minutes, Children Panel Reports and correspondence including the decisions of Children's Hearings.

Records should include a note of:

- the child's name and any other name the child has been, or is known by;
- the child's date of birth;
- the pupil's Scottish Candidate Number (SCN).
- a chronology of significant events (e.g. dates of staff contacts with children and their parents; actions and decisions and the rationale behind them; outcomes of interventions).
- all contacts (including positive outcomes) with the child and their family/carers including who information was shared with. It should be reviewed and monitored by Child Protection Co-ordinator.

Access to these files should be restricted to the Child Protection Coordinator, the Head of School and any member of staff delegated by the Head of School. Appendix 3 provides an overview grid on which to summarise Child Protection cases.

#### **4.7 Storage, Retention and Disposal of Records**

Good information-sharing depends on the quality of record-keeping and on robust processes for storing information. All schools should have clear procedures for recording and handling personal information, including managing the interface between electronic and manual records. Procedures should also be in place for the management, storage, retrieval, retention disposal and disclosure of information/records. All staff should understand their responsibilities with regard to recording, storing and sharing information. Where there are arrangements for the sharing of files or electronic information there should be clear protocols in place to support this. All records should be compatible with GDPR.

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<sup>27</sup> <http://www.gov.scot/Publications/2010/01/22134612/0->

### **1. Education Records**

A Pupil's Education Record should be kept for a period of 5 years after the pupil leaves school.<sup>28</sup>

### **2. Child Protection Records**

With regard to Child Protection Records, The Scottish Government has clarified that the primary duty to keep Child Protection records falls to Social Work where the retention periods are outlined in the Children and Family Services Record Retention Schedule.<sup>29</sup>

Given the nature of non-recent allegations of abuse (previously known as 'Historic Abuse') which often arise long after an individual has left school, there may be individual cases where a school would wish to retain child protection records beyond the 5 years advised. If a school decides to retain a file for longer than the recommended retention period, the rationale for keeping the file must be recorded and it should be compatible with GDPR.

### **3. Transfer of a Child Protection file to another School**

Where a pupil changes school, the Child Protection Coordinator needs to ensure that their Child Protection file is transferred to the new school as soon as possible. Best practice, if possible and practical, would be for the Child Protection Coordinator to meet with their equivalent in the new school. Receipt of the file should be obtained. If a face to face meeting is not possible, the file should be transferred separately from the Pupil's Education Record, sent tracked and confirmation of receipt should be obtained.

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<sup>28</sup> [http://www.legislation.gov.uk/ssi/2003/581/pdfs/ssi\\_20030581\\_en.pdf](http://www.legislation.gov.uk/ssi/2003/581/pdfs/ssi_20030581_en.pdf).

<sup>29</sup> <http://www.scottisharchives.org.uk/scarrs/schedules>.

## 5. ROLES AND RESPONSIBILITIES FOR CHILD PROTECTION

### 5.1 The Safe, Child-Centred School



The above diagram<sup>30</sup> illustrates what needs to be in place to safeguard children and young people's wellbeing and protection. Schools should have in place:

1. Governance arrangements that include a Safeguarding Sub-Committee.
2. A robust Recruitment & Selection Policy.
3. A Code of Conduct which has been issued and signed for by all staff and a record kept.
4. A Whistleblowing Policy which all staff are made aware of.

In addition they should:

5. Provide a safe environment for children and young people to flourish, learn and develop and promote their wellbeing and protection.
6. Have in place curricular programmes that promote the health and wellbeing of children and young people. These should include Personal Safety Programmes to give pupils knowledge and skills to keep themselves safe from all forms of abuse including Online Safety and know how to respond when something goes wrong. Where relevant, these programmes involve parent information sessions.

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<sup>30</sup> Diagram designed by Dr S Hamilton, author of this Guidance.



7. Understand what safeguards are necessary to keep children and young people safe and to support them.
8. Work in partnership with other agencies to support children and young people who have experienced abuse and neglect to stay safe, healthy and well and get them access to specialist services to help them recover.

## **5.2 Boarding/Residential Schools**

Staff have a responsibility to ensure that the children in their care are not harmed. This applies to teachers and all other staff working with pupils from Early Years to S6, but has added force in schools with a boarding facility. The Children (Scotland) Act 1995 gave a statutory focus to that responsibility by placing upon the managers of independent boarding schools a duty to safeguard and promote the welfare of children resident in their schools. Children living away from home for significant periods of time are often more vulnerable in a variety of ways:

- separation from family may result in a readiness to form close emotional attachments to peers and other adults;
- emotional or academic stress can result in young people developing self harming behaviours including substance misuse and eating disorders;
- close and sustained contact with peers may result in their succumbing to peer pressure, becoming the victim of bullying, including cyberbullying or themselves indulging in bullying; peer to peer abuse.
- the balance between supervising free time and promoting young people's independence may result in young people becoming involved in potentially risky activities in their leisure time, without the risks having been fully assessed.

Such vulnerability can result in children becoming the victims of abuse by themselves, by their peers or by adults, known and unknown to them. As part of their induction packs for pupils, all boarding schools should provide clear information on sources of support for pupils. As well as including the Child Protection Co-ordinator and other school-based contacts, these should include:

- the contact number/access to an independent visitor and/or visiting governor;
- where they can seek help for cyberbullying or any concerns regarding E-safety;
- where available, the contact number of the local authority's Children's Rights Officer;
- a copy of the school's complaints procedure;
- where relevant to the pupil's age and understanding, a copy of the school's pupil confidentiality guidance;
- the contact number of Childline (0800 1111).

In addition, boarding schools should ensure that:

- pupils are enabled effectively to sustain family contacts through a range of methods including E-technology, thus reducing feelings of isolation;
- accommodation arrangements, including toilets, showers, and sleeping facilities have regard for pupils' rights to dignity, privacy and personal space;
- staff have in place good formal and informal methods of monitoring the wellbeing of the pupils in their care. These should include an adequate supervision ratio (the nature of which will vary depending on the age of the young people and the lay-out of the premises), regular individual and group meetings and informal observation at meal times and in free time;
- the residence has in place good monitoring procedures for pupils' eating and sleeping patterns to assist early identification of such difficulties as eating disorders or substance misuse;
- a policy is in place to regulate the access pupils have to mobile technology overnight;
- where pupils leave the site in their free time, there are robust procedures in place to know the whereabouts of the pupils, the activities involved, who they are meeting and the expected time of return. A risk assessment should always be carried out and reviewed as, and when, necessary. Care should be exercised over activities e.g. attendance at parties, details of which are vague.
- activities with a strong group ethos, such as cadet forces, pipe bands and sports teams, do not make pupils feel excluded and do not involve inappropriate initiation;
- staff have an understanding of the needs of overseas pupils;
- boarders should have access to an independent listener (visitor) and be provided with a range of helplines and contact numbers, including the Children's Commissioner, to ring in case of problems or distress. Their parents should also have access to the contact details of the school's Child Protection Co-ordinator should they have concerns about their child/a boarder's welfare.
- where schools assist in organising families for boarders during exeat and school holidays, procedures are in place to ensure appropriate checks are undertaken including PVG checks and references (see section 5.7.8 School Trips and Exchange Visits) and clear guidance is provided to families to support them and to ensure that the care and welfare of the child or young person is protected.

### **5.3 The Child Protection Co-ordinator**

The Head of School should ensure an appropriate senior member of staff is appointed to the role of the Child Protection Co-ordinator (CPC). This person should take lead responsibility for safeguarding and child protection. This should be explicit in the role holder's job description and he/she should have the appropriate status and authority within the school to carry out the duties of the post. They should be given the time, funding, training, resources and support to provide advice and support other staff on child protection matters, to take part in discussions and inter-agency meetings, and/or to support other staff to do so, and to contribute to the assessment of children. The wellbeing and protection of children and the efficient operation of the school's Child Protection Procedures will be facilitated by the CPC. Assigning the role of

CPC to a member of staff who is not the Head of School does not preclude the involvement of the Head of School in discussions about child protection concerns.

The CPC has both general, and particular, responsibilities with regard to child protection. The key responsibilities are:-

- staff induction - supplying new members of staff with a written copy of the procedures (e.g. induction card/leaflet/summary chart) and Code of Conduct and emphasising the importance of these;
- ensuring that all staff are aware of the school's child protection procedures and any amendments to them;
- organising staff briefings and training on child protection: new staff should receive a briefing and, and undergo a Child Protection Course for the 'Specific Contact Workforce'.<sup>31</sup> Other staff should receive an updated briefing annually from the Child Protection Co-ordinator with whole staff training from an external Child Protection Consultant every 2-3 years;
- overseeing the planning of any curricular provision designed to give children the knowledge and skills to keep themselves safe from all forms of abuse including online safety;
- understanding the specific needs of children in need, those with special educational needs and young carers;
- be able to keep detailed, accurate, secure written records of concerns and referrals;
- referring cases of suspected abuse to the statutory agencies;
- supporting staff who raised the concern;
- liaising with other agencies, e.g. police, Social Work (Children and Family Services), Health, the Children's Reporter in matters relating to child protection;
- listening and responding to general concerns raised by staff, pupils and parents/carers in relation to child protection;
- co-ordinating action within the school and, where relevant, in boarding accommodation in relation to specific children about whom concerns have been raised;
- delegating responsibilities to the most appropriate person, e.g. in situations where the CPC may not be the most appropriate person to support a particular child when an allegation has been made;
- having knowledge of how local authorities conduct a Child Protection Case Conference and Review Conference and be able to attend and contribute to these effectively;
- ensuring they receive updated training for the 'Intensive Contact Workforce' on a regular basis (the Head of School should also receive training at this level). CPCs must ensure their professional knowledge and skills are as up to date as possible in a

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<sup>31</sup><https://www.webarchive.org.uk/wayback/archive/20170115154453/http://www.gov.scot/Resource/0040/00409124.pdf>

changing landscape. The line manager of the Child Protection Co-ordinator together with the CPC should assess the professional learning requirements of their CPCs to determine if more frequent, annual training is necessary e.g. new or inexperienced staff appointed as CPCs may benefit from more frequent training in order to build their own knowledge and skills and confidence in managing child protection;

- review the school's procedures annually.
- audit child protection at regular intervals.

In small schools, it may be appropriate for the Head of School to be the Child Protection Co-ordinator. Whoever is appointed, should receive training, at the earliest opportunity, to equip them for the task. It is advisable for the Child Protection Co-ordinator to have a recognised deputy and a contact number for out-of-school hours. This could be important in cases of illness, leave or where allegations are made at weekends or in the holidays (or where allegations are made that involve the Child Protection Co-ordinator).

#### **5.4 School Nurses**

School nurses have an important role in promoting the wellbeing of children and young people and can contribute to the prevention and early detection of child abuse through a range of health promotion activities. These include: working with teachers on personal, social and health education; monitoring the health of the school population; liaising effectively with teachers and other practitioners; and profiling the health of the school population so that nursing services can be targeted where they are needed most. School nurses continue to monitor the development and health and wellbeing of all children who have additional health plan indicators from Primary 1 onwards for as long as necessary. Where wellbeing or child protection concerns arise, the school nurse should always be informed and, where appropriate, involved to ensure the child's health needs are fully identified and met.

#### **5.5 Governors**

As well as other safeguarding responsibilities, the Chair and Governors are accountable for ensuring their school has effective Child Protection Policies and Procedures in place. It is good practice to have a designated Governor with a particular responsibility for safeguarding and child protection as well as having a Safeguarding Sub-Committee. Among other responsibilities the Sub-Committee should include the monitoring, auditing and quality assuring of child protection preferably by an Independent Consultant to ensure independence, transparency and reassurance for the Chair. The Governors are also accountable for the wellbeing and protection of pupils and should have systems in place where these are evaluated and formally reported to them.

#### **5.6 Staff Training**

Training in child protection is essential for everyone, including Governors, involved in managing a school or who have contact with pupils. Heads of School and the Child Protection Co-

ordinators will also need training on the law and the operation of procedures. The National Training Framework for Child Protection Learning & Development in Scotland (2012) details the competencies, knowledge and skills required by the work force. These are divided into three levels depending on the roles and responsibilities of staff - the 'Generic Contact Workforce', the 'Specific Contact Workforce' and the 'Intensive Contact Workforce'. Every school should have a Child Protection Training Plan and this should be updated this annually. All staff in schools should:

- have information, advice and training to make them aware of the risks to children and understand their particular responsibilities in keeping children safe;
- as part of the requirement for staff to undergo regular updated Child Protection training and to ensure children and young people are taught about keeping themselves safe including online safety, then online safety training for staff should be integrated, aligned and considered as part of the overarching approach for a safe, child centred school;
- have ready access to appropriate, relevant and up-to-date guidance that tells them what action to take if they are concerned about a child's wellbeing and protection;
- understand what, how and when to record and share information, to keep children safe and be able to do so;
- have knowledge of other services who may play a significant role in protecting children;
- know who to report to and where they can seek advice from if they need it; and
- have appropriate support from the CPC when they are concerned about a child or when they are involved in child protection processes.

## **5.7 Good Practice in Safeguarding and Protecting Children and Young People**

### **5.7.1 Bullying**

All schools should ensure their anti-bullying policy provides a framework for proactive and reactive strategies and includes cyberbullying and should be based on the 'Respect' Guidelines.<sup>32</sup> Further guidance on cyberbullying can be found in a Department for Children, Schools and Families (DCSF) publication.<sup>33</sup> The aforementioned guidance sets out clear expectations regarding the behaviour and responsibilities of both staff and children and young people. Policies should be developed in consultation with parents and carers and children and young people. Schools should ensure that they have a streamlined process for recording and monitoring of bullying incidents. Further information can be found in the Scottish Government's guidance relating to improved anti-bullying measures.<sup>34</sup>

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<sup>32</sup> <http://respectme.org.uk/wp-content/uploads/2017/11/Policy-thought-to-Practice-2017.pdf>  
<http://www.gov.scot/Resource/0052/00527674.pdf>

<sup>33</sup> <http://www.digizen.org/downloads/CYBERBULLYING.pdf>

<sup>34</sup> <https://news.gov.scot/news/improved-anti-bullying-measures>

Bullying behaviour can take place anywhere and 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. Bullying, especially if left unaddressed, can have a devastating effect on individuals. It can be a barrier to their learning and have serious consequences for their mental health. Bullying which takes place at school does not only affect an individual during childhood but can have a lasting effect on their lives well into adulthood. By effectively preventing and tackling bullying, schools can help to create safe, disciplined environments where pupils are able to learn and fulfil their potential.

### **5.7.2 Photographs and Videos of Children and Young People**

Schools should take all reasonable steps to safeguard pupils when they are being photographed and/or videoed. These provide opportunities to celebrate school activities and pupils' achievements and are invaluable for some specific educational purposes. Common sense and proportionality are required when implementing this guidance and all decisions should reflect the best interests of the pupil:

- School equipment should be used for taking photographs/filming.
- No photographs or video footage should ever be permitted in areas of personal privacy by staff or pupils e.g. changing rooms, bathrooms and sleeping quarters.
- If using an external agency, ensure the photographer has been appropriately checked and is accompanied by a member of school staff at all times.
- All images and videos of pupils taken for educational purposes belong to the school and should be compatible with GDPR.

Parents and pupils should be informed that pupils may, from time to time, be photographed. This could be for one of the following reasons:

- 1) Educational purposes.
- 2) Video footage for performance development.
- 3) Media coverage of an event or achievement.
- 4) Promotional purposes e.g. website or publication.

#### **Consent**

- Parents/carers should be asked to complete a form that allows them to consent or to withhold consent for the photographing and videoing of all educational activities.
- Specific additional consent should be sought for 3) and 4) above as the images will be available in the public domain.
- Where appropriate, pupils should be asked their views. Where a child is able to provide an informed view (on the principle of other legal rights, generally a child over 12 may be

deemed to have legal capacity to do so) this should be taken into account as well as the GDPR.

- Images should not be shared with external agencies unless express permission is obtained from the parent and, where appropriate, the young person.
- Teachers/coaches using videoing as a legitimate teaching and coaching aid should make parents or carers and pupils aware that this will be part of the programme. If a video is being given to a pupil to take home for their personal development, then consent should be sought from the parents of any of the other pupils shown on the video. Furthermore, pupils and parents need to be clear that this material should not be put into the public domain e.g. uploaded onto YouTube.

### ***Publishing on social media or the school website***

- Personal information that could identify a pupil should never be included e.g. home address, e-mail address, home and mobile phone number.
- Photographs with the full name(s) of the pupil featured should not be used unless the school has parental consent in writing and parents have been informed as to how the image will be used. Where the pupil's details are already in the public domain parental permission should still be obtained for any school usage.
- Special care should be taken in relation to vulnerable children e.g. a child where there is a Child Safety Plan in place as a result of domestic violence or a child with a disability, and consideration given to whether publication would place the child at risk.

### ***Storage and use of images***

- Schools should ensure that all negatives, copies of videos and digital photograph files are stored in a secure place in school in line with the GDPR. Schools should make sure all copies of images, including negatives or electronic copies, are deleted when no longer needed or when the pupil leaves the school.
- Schools do not use images of pupils who have left the school unless express permission has been sought. If images are kept for archives, school leavers should have consented to this.
- Schools use the image only for the purpose it was taken. It should not be used for purposes that the pupil or their parent is unaware of or has not given consent to use.

### ***Potential risks***

- The inappropriate use, adaptation or copying of images for use on child abuse websites.
- The identification of children when a photograph is accompanied by significant personal information that will assist a third party in identifying the child. This has, and can lead to, children being groomed.
- The identification and locating of children in inappropriate circumstances which include:
  - a. Where the child has been removed from his/her own family for their own safety.
  - b. Where the child may be a witness in criminal proceedings.
  - c. Where there is a custodial dispute and possible threat to the child of being taken out of the country.

### ***Taking photographs or videoing in public places and when to report concerns***

- It is not an offence to take appropriate photographs in a public place even if asked not to do so.
- No one has the right to decide who can, and cannot, take images on public land.
- The land or facility owner can decide whether or not photography and or videoing activities will be permitted.
- Anyone behaving in a way which could reasonably be construed as inappropriate in relation to filming or photographing should be reported to the person in charge on the day. They should be approached for an explanation.
- If a satisfactory explanation is not provided, the circumstances should be reported to the Child Protection Coordinator/Head of School.
- If anyone has concerns about the immediate safety of a child relating to the recording of images then it should be reported to the police.

### **5.7.3 The Curriculum – Wellbeing and Personal Safety**

Through the curriculum, teachers have an important role in equipping children with the knowledge, skills and understanding they need to keep themselves and others safe from all forms of abuse. This could include offering advice and guidance on issues such as drugs, alcohol, under-age sexual activity, honour-based violence, forced marriage, female genital mutilation, child sexual exploitation and bullying, including cyberbullying. Schools should have a health programme in place which promotes good health and protection from illness and disease. Schools should also have Personal Safety Programmes in place for children and young people, appropriate to their age, to raise awareness about neglect, emotional, physical and sexual abuse and to give children and young people the knowledge and skills to keep themselves safe and to know how to report if they have concerns. Where appropriate, these programmes should involve partnership with parents and carers.

### **5.7.4 Online Safety**

Schools should have a whole school approach to Online Safety including what they can reasonably do to limit children's exposure to risks from the school's IT system. As part of this process, schools should ensure that there are appropriate filters and monitoring systems in place; they should be careful that over blocking does not lead to unreasonable restrictions as to what children and young people can be taught with regard to online teaching, including Online Safety and Personal Safety Programmes. As part of a child-centered, safe school, this will also include a policy on the use of mobile technology and cyberbullying.

An effective approach to Online Safety empowers a school to protect and educate pupils and their parents/carers in their use of technology and establishes mechanisms to identify and intervene in any incident where appropriate. As schools increasingly work online, it is essential



that children are safeguarded from potentially harmful and inappropriate online material. It is increasingly accepted that, as with children riding a bicycle or learning to swim, using the Internet will carry some risk of harm. Risks do not inevitably result in harm, but rather concern factors that raise the probability of harm to children. The task is to develop children and young people's critical and technical skills to manage risk online.

Children and young people's use of the Internet is changing fast, in response to considerable societal, market and technological innovation and one of the most popular uses of the Internet among them is Social Networking. Digital media and the Internet are an integral part of children's lives. The overall amount of use among Internet users continues to rise year on year, with no evidence of reaching a limit. There is evidence that the poorest households have access to fewer devices and consequently, a minority of children lack consistent/affordable connectivity. The range of activities children undertake online increases with age, and the nature of their activities and interests also alters, with more communication, learning and content creation among older children – although more advanced creative and civic activities are only practised by a minority.

Children and young people need to understand the risks posed by E-technology so that they can keep themselves safe. Schools should have in place curricular programmes to give children and young people knowledge and critical skills to use E-technology responsibly and safely, and know how to respond when something goes wrong. Some excellent curriculum material is produced by the Child Exploitation Online Protection Centre (CEOP).<sup>35</sup> Every school should consider having a member of staff trained as a CEOP Ambassador so they can keep staff and parents up to date and access curricular materials. There is a wealth of information available to support schools to keep children safe online. The following is not exhaustive but should provide a useful starting point:

- [www.thinkuknow.co.uk](http://www.thinkuknow.co.uk)
- [www.disrespectnobody.co.uk](http://www.disrespectnobody.co.uk)
- <https://www.saferinternet.org.uk/>
- [www.internetmatters.org](http://www.internetmatters.org)
- [www.childnet.com/cyberbullying-guidance](http://www.childnet.com/cyberbullying-guidance)
- [www.pshe-association.org.uk](http://www.pshe-association.org.uk)
- [www.educateagainsthate.com](http://www.educateagainsthate.com)
- [www.gov.uk/government/publications/the-use-of-social-media-for-online-radicalisation](http://www.gov.uk/government/publications/the-use-of-social-media-for-online-radicalisation)
- <https://www.gov.uk/government/groups/uk-council-for-child-internet-safety-ukccis>

Outside agencies can also make valuable contributions to school programmes.

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<sup>35</sup> [www.ceop.police.uk/](http://www.ceop.police.uk/)

### 5.7.5 Online Risks

The recent report, 'Children's online activities, risks and safety. A literature review by the UKCCIS Evidence Group',<sup>36</sup> provides a comprehensive and robust analysis of the online activities of children and young people and the views of their parents. In addition, specific areas of risk for children and young people are identified. This section of this guidance draws selectively from this report and, in light of the findings, makes recommendations what should be included/reinforced in E-safety Programmes in schools.

E-technologies bring a variety of risks from adults and peers, such as: exposure to obscene, violent or distressing material; bullying, coercion or intimidation through social media platforms 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. The use of E-technology has become a significant component of child protection concerns. The breadth of issues classified within online safety is considerable, but can be categorised into three areas of risk:

1. Content: being exposed to illegal, inappropriate or harmful material.
2. Contact: being subjected to harmful online interaction with other users.
3. Conduct: personal online behaviour that increases the likelihood of, or causes, harm.

#### ***Internet usage***

- The majority of children aged 5-10, and nearly all 11-16-year-olds, now use the Internet, as do around one in three 3-4-year-olds. While the proportion of Internet users aged 5+ appears to have reached a plateau, it is possible that more pre-school children will use the Internet in the coming years. Of concern in terms of risky online behaviour around a quarter of 8-12-year-olds use Social Networking Sites (SNSs) under age.

#### ***How many children report online risk?***

- Around one in ten children (11%) who use the Internet aged 8-11 and almost twice as many (19%) aged 12-15 say that they encountered something online that they found worrying or nasty in some way that they didn't like. This proportion has changed little in the past five years. Pornography and violence constituted a substantial part of children's concerns. Girls are more likely to report this form of victimisation than boys (15% compared with 7% respectively).

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<sup>36</sup> <http://eprints.lse.ac.uk/84956/1/Literature%20Review%20Final%20October%202017.pdf>

## ***Cyberbullying***

- Research findings show between 11% of 8-11-year-olds and 13% of 12-15-year-olds of children and young people in the UK experience cyberbullying.<sup>37</sup> A variety of psychological and social impacts have been identified as the result of experiencing cyberbullying. These include emotional distress and anxiety, loneliness and depression, suicidal ideation (with some young people taking their lives) and self-harm which are potentially severe and long-lasting.<sup>38</sup> The reasons for victimisation are diverse.
- Some cyberbullying is clearly deliberate and aggressive, but it is important to recognise that some incidents of cyberbullying are known to be unintentional and the result of simply not thinking about the consequences. The instant nature of digital communication means that children have little thinking time about what they are doing. What may be sent as a joke, may not be received as one, and indeed means the sender may not see the impact of the message on the receiver. There is also less opportunity for either party to resolve any misunderstanding or to feel empathy. In cyberbullying, bystanders can easily become perpetrators – e.g. by passing on or showing to others images designed to humiliate or by taking part in online polls or discussion groups. They may not recognise themselves as participating in bullying, but their involvement compounds the misery for the person targeted.

## ***Selfies***

- Girls reported experiencing high levels of physical and social scrutiny on social media. Social media also puts pressure on girls to live their lives in the public domain, to present a personal 'brand' from a young age, and to seek reassurance in the form of likes and shares online and to develop an online brand.
- Boys were less frequent posters of selfies, with participants describing pressures to act 'tough' or being more 'laddish' on social media than they would offline.

## ***Sexting***

- Sexting is defined as 'the production and/or sharing of sexual photos and videos of and by young people who are under the age of 18. It includes nude or nearly nude images and/or sexual acts. It is also referred to as 'youth produced sexual imagery.'<sup>39</sup> Sexting does not include the sharing of sexual photos and videos of under-18 year olds with or by adults. This is a form of child sexual abuse and must be referred to the police. The

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<sup>37</sup> <https://www.ofcom.org.uk/>

<sup>38</sup> <https://www.ncbi.nlm.nih.gov/pubmed/24512111>

<sup>39</sup> <https://www.safeguardingschools.co.uk/wp-content/uploads/2016/08/Sexting-in-schools-and-colleges-UKCCIS-August-2016.pdf>

prevalence and impact of children and young people engaging in sexting or creating and sharing sexual images of themselves continues to be a concern.

- Most children do not experience sexting; of those who do, such experiences are often associated with developing intimate relationships as teenagers. There have been a few cases in Scotland where 'sexting' has resulted in young people (16-18) being charged and convicted with uploading and downloading indecent images.

### ***Digital footprint***

- In the Ofcom Survey (2016) few of the 474 young people aged 12-15 in 2016 appeared concerned that their digital footprint could be problematic for them later.

### ***Self harmful sites***

- When evaluating the risks to children online, it is important to take into account the issue of self-harm, suicides and eating disorders sites, among others. There is a slight increase in the reporting of pro-anorexia and other kinds of self-harm sites. Seeing potentially negative user-generated content (related to hate, pro-anorexia, self-harm, drug-taking or suicide) is the third most common risk reported by children aged 11-16.<sup>40</sup> There is also increased evidence that the individuals using novel suicide methods have researched them on the Internet.<sup>41</sup>

### ***Grooming***

- 'Grooming' refers to a process of socialisation through which an adult engages with and manipulates a child or young person for the purpose of online sexual abuse (which may include offline aspects). Contact offences often occur as a result of a grooming process, although grooming doesn't always result in a contact offence; some offenders simply seek online gratification. Grooming experiences include:
  - i. manipulation;
  - ii. deception;
  - iii. regular/intense contact;
  - iv. secrecy;
  - v. sexualisation;
  - vi. kindness and flattery;
  - vii. erratic temperament and nastiness;
  - viii. simultaneous grooming of those close to the victim.

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<sup>40</sup> <http://netchildrengomobile.eu/reports/>

<sup>41</sup> <https://academic.oup.com/jpubhealth/#>

- These tactics are likely to make the victims feel familiarity, love, trust, increased confidence, emotional support and excitement, but also a lack of control, confusion, reliance on the offender and distancing from family members. Once an individual is 'enmeshed' in the relationship with an offender they are more likely to endure negative feelings associated with the grooming but equally develop a bond with the offender. It is clear that the consequences of sexual grooming can be, and often are, devastating for the child; however, the impact will vary depending on the nature and severity of the abuse and possibly the extent to which contact abuse is involved.<sup>42</sup>

### ***Online pornography***

- Research findings suggest more children are more likely to report unintentional rather than intentional viewing of pornography. This may happen through a number of different ways such as pop-ups, misleadingly named websites or advertising on illegal streaming sites.

One of the most significant UK studies conducted to date on behalf of the NSPCC and the Office of the Children's Commissioner<sup>43</sup> defines pornography as:

'Images and films of people having sex or behaving sexually online. This includes semi-naked and naked images and films of people that you may have viewed or downloaded from the Internet, or that someone else shared with you directly, or showed to you on their phone or computer.'

The study found:

- more boys view online pornography, through choice, than girls;
- at 11, the majority of children had not seen online pornography;
- by 15, children were more likely than not to have seen online pornography;
- children were as likely to stumble across pornography via a 'pop-up' as to search for it deliberately or be shown it by other people.

Excessive exposure to pornography was linked to:

- unrealistic attitudes about sex;
- maladaptive attitudes about relationships;
- more sexually permissive attitudes;
- greater acceptance of casual sex;
- beliefs that women are sex objects'
- more frequent thoughts about sex;

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<sup>42</sup> [http://www.innocenceindanger.de/wp-content/uploads/2014/05/Interview\\_analysis\\_PRELIMINARY.pdf](http://www.innocenceindanger.de/wp-content/uploads/2014/05/Interview_analysis_PRELIMINARY.pdf)

<sup>43</sup> [https://www.researchgate.net/publication/309288064\\_I\\_wasn't\\_sure\\_it\\_was\\_normal\\_to\\_watch\\_it](https://www.researchgate.net/publication/309288064_I_wasn't_sure_it_was_normal_to_watch_it)

- sexual uncertainty.

In addition to the impact of viewing pornography on young people's general sexual behaviour and sexual risk taking, there is also evidence that viewing extreme pornography may be associated with sexually deviant/coercive behaviour.<sup>44</sup> A comprehensive review<sup>45</sup> also found that pornography use is associated with more permissive sexual attitudes and stronger gender-stereotypical sexual beliefs. Pornography use among adolescents is also related to the incidence of sexual intercourse, greater experience with casual sex and more sexual aggression, in terms of perpetration and victimisation.

- A report considering issues discussed in Childline counselling sessions stated that accessing pornography at school was a growing problem. Young people reported fellow pupils having pornographic images on their phone and being forced into looking at them or to face being ridiculed for refusing.<sup>46</sup>

### ***Digital Evidence***

All those involved in the protection of children and young people should be aware of the value of digital evidence contained on computers, mobile phones and other media (this includes media used by the victim as well as any suspect). If there is a suspicion that such equipment might be of evidential value the following procedures should be adopted:

- Prevent further use of the computer or other equipment.
- Prevent access to the computer, other equipment or associated media.
- Do not disconnect the power unless there is reason to believe that the computer is carrying out a task that would delete any evidence, in which case remove the power lead from the rear of the computer; do not shut the computer down in the normal manner and do not switch off at the wall (both these actions may cause files to be deleted).
- Do not allow anyone (no matter how computer-literate they may be) to interrogate the computer - this should only be done by the police so as to ensure that the evidential value of the data is preserved.

#### **5.7.6 Online Safety - Parents**

- The Ofcom (2016) Survey reported that parents use a range of mediation strategies including technical controls, rules regulating online access and use, with the majority preferring to talk to their children about the consequences of their online activities – but gaps remain in parents' abilities and skills for effective mediation; rules and

<sup>44</sup> <http://journals.sagepub.com/doi/abs/10.1177/0886260516633204>

<sup>45</sup> <https://www.ncbi.nlm.nih.gov/pubmed/27105446>

<sup>46</sup> [www.nspcc.org.uk/globalassets/documents/research-](http://www.nspcc.org.uk/globalassets/documents/research-)

restrictions tend to keep children safe but constrain their opportunities and invite evasion; enabling mediation is empowering providing children and parents have the skills and resilience to cope with risk when it occurs.

- Parents tend to prefer control tools they are familiar with unless an undesirable incident prompts them to adopt a new one.
- Parents prefer to receive information about their children's online safety from schools despite information being available from multiple sources.

### **5.7.7 Online Safety - Recommendations for Schools**

In general, schools should aim to provide broad E-safety advice and offer forms of support to pupils who seek help. Through E-safety, schools should highlight the positives of the Internet to pupils whilst making them mindful of the risks. Building children's digital resilience should have a twin focus on developing critical ability and technical competency in terms of education, as well as supporting children online and offline.

- *Parents* – Gaps remain in parents' abilities and skills for effective mediation; rules and restrictions tend to keep children safe but constrain their opportunities and invite evasion; enabling mediation is empowering providing children and parents have the skills and resilience to cope with risk when it occurs. This should be addressed at parents' awareness meetings on Online Safety where partnership working is crucial to keeping children and young people safe online.
- *Personal Information* - There is evidence that few children and young people add online contacts they don't know or send photos of themselves they later regret; however, most appear to have learned not to disclose personal information online. Less time should be spent focusing on this issue.
- *Reporting Concerns and Exposure to Risk* – A relatively small percentage of children (13%) who have encountered online risk have reported it. The majority of children who are Social Networking Sites users (42%) have a public profile as opposed to 32% who have private profile and 26% who do not understand the difference. Of those children who encountered sexual imagery online, most hoped it would go away (26%), with half the number actually reporting the incident (13%). Others tried to fix it (22%), deleted unwelcome messages (19%) or blocked the sender (15%). The implications of all of these should continue to be addressed in E-safety lessons.
- *Cyberbullying* - It is important that pupils to continue to be made aware of the effects of their actions and the fact that these can be lifelong issues for some victims.
- *Online Hate* – A large proportion of cyberbullying and online harassment is focused on specific identity-related characteristics. There has been a significant rise in online hate. This should have a specific focus in the curriculum.
- *Sexting* - Key concerns about sexting relate to non-consensual forwarding to peers or images being posted online, and the associated social and emotional consequences. This includes distress, humiliation and reputational damage, as well as online and offline peer harassment and unwanted sexual advances. These negative experiences and impacts are reported by practitioners and evidenced by data provided by support

services and helplines for children and young people.<sup>47</sup> The wider context matters – the prevalence of gender inequalities, sexual stereotypes and coercion, and a lack of understanding of consent all serve to blur the boundaries between sexting and harassment; as a result, girls are more at risk, although there are also grounds for concern about boys. There is a continued need to address sexting and its consequences in E-safety education and at Parents' Meetings.

- *Pornography* – Pornography is often discussed by people with polarised views. In the Martellozzo et al's study,<sup>48</sup> focus group participants suggested that unhealthy attitudes towards women and sexual relationships that can arise from exposure to online pornography, may be negated by introducing formal school education on the issues surrounding online pornography. Children and young people who are educated about online pornography as part of Relationships, Sexual Health and Parenthood Education may be less likely to be negatively influenced by online pornography than those who have not had lessons on the topic. The inclusion may be associated with greater awareness of the issues surrounding pornography – along with other risks including as reported earlier young people being 'forced' in schools to watch pornography by their peers.<sup>49</sup>
- *Digital Footprint* - There is a pressing need to address the consequences of all types of online behaviour and its consequences for children and young people's digital footprint.
- *Safer Internet Day* - Awareness-raising campaigns such as a Safer Internet Day have been instrumental in changing attitudes and practices. Schools should continue to use this to highlight changes and new risks

Building digital resilience is aimed at strengthening the ability of the children and young people to correctly identify and interpret the impact and repercussions of the various online risks, and to develop both the technical and emotional competencies to deal with them. Thus it requires building their knowledge and awareness around the entire gamut of online risks without focusing exclusively on particular or immediate risks. This is reinforced in the findings by Vandoninck et al (2014)<sup>50</sup> who found that when children and young people feel capable of dealing with a risk, they are less likely to be fearful or worried by it. By helping children to become more confident and competent users of the Internet, including being able to face and deal with online risks, they will be able to embrace more online opportunities without needing to be curtailed by restrictive mediation strategies. Efforts to develop children's digital resilience should focus on critical ability and technical competency in order to support children in becoming active participants in their own protection and safety.

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<sup>47</sup> <https://www.childline.org.uk/>

<sup>48</sup> Ibid

<sup>49</sup> Ibid

<sup>50</sup> [http://eprints.lse.ac.uk/56972/1/EU\\_Kids\\_Online\\_Report\\_Online\\_Problematic\\_Situations\\_for\\_Children\\_June2014.pdf](http://eprints.lse.ac.uk/56972/1/EU_Kids_Online_Report_Online_Problematic_Situations_for_Children_June2014.pdf)



### 5.7.8 Child Protection - School Trips and Exchange Visits

The Board of Governors carries ultimate authority and responsibility for all trips and excursions. The Head of School is responsible for ensuring that *Going Out There – Scottish Framework for Safe Practice in Off-Site Visits* (2013)<sup>51</sup> Guidance is followed for all of the above. In addition to being trained in the aforementioned Guidance, the Head of School, the person responsible for authorising school trips, group leaders and their deputies leading and organising such visits should be trained in child protection to the appropriate level.

#### ***Exchange Visits – Host Families in Scotland***

These visits can enrich the languages curriculum and provide exciting opportunities for pupils to develop their confidence and expertise in the use of other languages. Schools have a responsibility for the wellbeing, safety and protection of children during any exchange visit they arrange and for considering how best to minimise risk of harm to those children involved. This would include when organising for the care and accommodation of a child with a host family (known as homestays) as part of the exchange. In planning a trip involving homestays, schools should agree a set of standards for homestays and for supervision with the local organiser. Schools should do everything that is reasonable, including a risk assessment, to ensure the safety and wellbeing of pupils on exchanges and that all host families at home and abroad complete the Host Family Stay Information Form (Appendix 4) and take up references. When arranging a homestay in Scotland, the advice from Disclosure Scotland is:

*‘Being a host parent is a “regulated activity” with children as per Schedule 2 of the PVG Act. This means that organisations who use host parents for organised activities, e.g. for school exchanges, are eligible to carry out a PVG check on the host parents in Scotland. However, the offences at sections 35 and 36 of the PVG Act do not apply. So an organisation will not commit an offence if they use a host parent who is barred from regulated work with children – this means that it is for the organisation to decide whether to access PVG checks or not, without the fear of committing an offence if they use someone who turns out to be barred. The offence at section 34, however, does still apply – i.e. if the host parent is barred from regulated work with children then the host parent themselves would still be committing the offence of applying for/doing regulated work from which they are barred.*

*PVG checks can only be carried out on the host parents themselves, but Police Act regulations permit an Enhanced Disclosure Check with a children’s list check on any person aged 16 or over who lives in the same house as the host parents. There would be a fee for such checks.’*

Given these checks can be made and that schools should be seen to have done everything that is reasonable to ensure the safety and protection of any pupil placed and avoid reputational damage or claims of negligence, the advice from Disclosure Scotland should be followed.

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<sup>51</sup> [www.goingoutthere.co.uk](http://www.goingoutthere.co.uk)

Additional proformas and helpful advice are available on the Members' page of the SCIS website.<sup>52</sup>

Group leaders should make daily contact with all members of the group to satisfy that all is well. Pupils involved and their parents should be given emergency numbers for contact should problems arise. In countries where the legislation with regard to drugs is more lenient than in Scotland, staff should never condone young people taking drugs when they could not legally do so in Scotland. The Code of Conduct for the trip (agreed in advance by parents, pupils and staff) should set the expected standards of behaviour (including the rules on personal safety), whilst ensuring that pupils gain maximum cultural, social and educational benefits.

It should be noted that where the child's parent(s) or a student themselves arranges their own homestay, this would be a private arrangement therefore the school would not be the regulated activity provider.

### ***Homestays – Host families abroad criminal checks***

It is not possible for schools to obtain criminal information from Disclosure Scotland about adults who provide homestays abroad. Schools should liaise with partner schools to establish a shared understanding of the arrangements in place both before, and during, the visit. They should also satisfy themselves that these are appropriate and sufficient to safeguard effectively every child who will take part in the exchange. There should also be an expectation that provided such procedures exist, host families in other countries are appropriately checked under their Government Guidance. Schools can obtain more information from the Centre for National Infrastructure (CPNI).<sup>53</sup> This site provides details of what information is available on disclosures of criminal records, the status of that information, who can apply, whether there is a cost etc. in numerous overseas jurisdictions. Schools are also free to contact the relevant Foreign Embassy or High Commission of the country in question to discuss what checks may be possible in respect of those providing homestay outside of the UK.

## **5.7.9 Work Placements and Community Service**

Where placements are being arranged for pupils, or where pupils themselves have arranged the placements, schools should satisfy themselves that, if appropriate, the Child Protection Policy of the organisation affords adequate protection for the pupil. Disclosure Scotland offers detailed guidance on whether those supervising children on work experience are doing regulated work with children. Schools are advised to check that:

- organisations have been assessed for their suitability, e.g. supervision of the pupil, their own staff/volunteer safety policies;

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<sup>52</sup> The following documents are available to download: 'Host Family Stay Information Form', 'Host to Host Exchanges - checklists for trip leaders, young people and the host family', 'International Visit Pro-Forma'.

<sup>53</sup> <https://www.cpni.gov.uk/system/files/documents/42/ca/how-to-obtain-an-overseas-criminal-records-check.pdf>

- the nature of the activity is suitable for pupil volunteers;
- any involvement with other vulnerable members of the community is safe for both them and the volunteer pupils;
- pupil volunteers are properly prepared for their placement with advice on appropriate conduct and personal safety;
- young people undertaking activities more independently have a member of staff they can contact at all times;
- there are arrangements with the host organisation to contact the school if there are difficulties or if the young person fails to arrive;
- transport arrangements to and from the placement are known by the school, the host organisation and the parents/carers.

If concerns remain, these should be raised with the school's Child Protection Co-ordinator. Advice can also be obtained from Volunteer Development Scotland.<sup>54</sup>

#### **5.7.10 Volunteering and 'Buddying' by Pupils**

Many children and young people are involved in activities and opportunities in school where older pupils support younger pupils or where pupils provide peer support for those with additional support needs or where bullying is being discussed within a group of young people.

Staff should bear in mind the following issues when making arrangements for such activities:

- pupils need training for their role in helping other pupils;
- pupils should be aware of the limits of their role in helping other pupils and know how and when to seek help from a member of staff;
- guidance should be in place for peer support and should be discussed with the pupils;
- older pupils should not be left to supervise younger children without adult support;
- one-to-one 'buddying', paired reading or tutorial support between pupils should take place in view of staff;
- pupils, especially younger pupils, should know that they can speak to a member of staff if they feel uneasy about the situation or about their relationship with another pupil.

#### **5.7.11 Children Missing in Education**

Where a child goes missing from education, the school should make such enquiries to try and locate the child including, where relevant, the education service within their local authority and the authority where the child is resident, if different. If these are not successful, the school should make a referral to Children Missing from Education (CME) through their local authority. It may be necessary in some circumstances to approach CME directly. CME (Scotland) can assist

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<sup>54</sup> <https://www.volunteerscotland.net/for-organisations/guidance/>

by co-ordinating wider searches across the range of local authorities, other organisations and outside Scotland.<sup>55</sup>

## **6. RESPONDING TO CONCERNS/ALLEGATIONS OF ABUSE ABOUT CHILDREN**

### **6.1 Introduction**

All staff who work with children and their families have a role to play in child protection. That role will range from identifying and sharing wellbeing as well as child protection concerns about a child or young person, to making an active contribution to supporting the child or young person and their family. Staff should be alert to signs that a child may be being abused (see Appendix 5).

### **6.2 How Concerns May Arise**

Concerns about child abuse may arise in the following circumstances:

1. A member of staff has concerns arising from observation of the child's behaviour or appearance, or comments the child has made, or a child tells a member of staff they have been abused or feel unsafe.
2. A third party expresses concerns to a member of staff: this could be another pupil, a parent/carer or member of the public;
3. An anonymous allegation is received;
4. Non-recent child abuse (previously known as 'Historical Abuse').

It is also possible that a school's co-operation might be sought in relation to a child abuse investigation which was initiated outside the school.

#### ***1. A member of staff has concerns or a child tell a member of staff they have been abused***

When a member of staff has reason to believe that a child's safety is compromised or they are suffering or are likely to suffer significant harm, that member of staff must share these concerns with the school's Child Protection Co-ordinator. The suspicions of a staff member may be aroused by the presence of indicators of possible abuse or by a feeling, based on knowledge of the child, that all is not well, or by a mixture of factors. All responses should be proportionate. It may be appropriate for a member of staff to make an enquiry of a child about how an obvious injury was sustained, or why the child appears upset or distressed using open-ended non leading questions e.g. 'What happened?' 'Where did it happen?' 'When did it happen?' and 'Who did it? If the child does not respond, the matter should not be pursued further and advice should be sought. Staff should:

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<sup>55</sup> <https://beta.gov.scot/policies/schools/children-missing-from-education/>

1. Respond without showing signs of disquiet, anxiety or shock.
2. Listen sympathetically and with care.
3. If necessary enquire about how an injury was sustained or why a child appears upset by using the 'W' Questions – What happened? Where did it happen? Who did it? When did it happen?
4. Do not interrogate or enter into detailed investigations; rather encourage the child to say what he or she wants to establish the basic facts.
5. Observe carefully the behaviour or demeanour of the child or the person expressing concern.
6. Reassure the child that he/she is not to blame.
7. Do not show disbelief.
8. Do not give a guarantee of confidentiality.
9. Take the allegation seriously.
10. Affirm the child's feelings as expressed (don't tell the child how he/she should feel).
11. Avoid being judgemental about the information given by the child.

Questioning and testing of evidence is not a matter for school staff; this is the responsibility of the police and social work. Such an approach by staff could prejudice later investigations. The role of school staff is to **recognise, respond, report and record (the 4 R'S)**:

1. **Recognise** when the child's behaviour and demeanour is a cause for concern or they have told you something that suggest that they may be at risk of harm.
2. **Respond** by following the guidance below.
3. **Report** their concerns as quickly as possible and on the same working day to the Child Protection Co-ordinator.
4. **Record** in detail on the Child Protection Concern Form and sign and date the form what they have seen and heard, and when they did so. Signs of physical injury should be described in detail. Any comment by the child concerned, or by an adult who might be the abuser, about how the injury occurred should be recorded, preferably quoting words actually used, as soon as possible after the comment has been made, and sign and date the report on the day.

If the child draws back from speaking to the staff member, the child should be informed of the possibility of making a private and confidential telephone call to Childline on 0800 1111. Childline's approach is to listen to the child, discuss options and encourage the child to seek help from a trusted adult. A member of staff who is concerned about a child in these circumstances should inform the Child Protection Co-ordinator that the child appears to have some concerns. No child should be exposed to danger where someone knew of that danger and it is everyone's responsibility to ensure that agencies responsible for the protection of children are informed without delay. In the exceptional circumstance where the Child Protection Co-ordinator or a senior member of staff is not available or cannot be contacted, staff must (without delay) refer their concern to Social Work (Children and Family Services) or police for advice.

Where the concerns are expressed by another pupil, it should be remembered that reporting suspicions of abuse/actual abuse may be traumatic for that child and appropriate support should be provided.

## **2 A third party expresses concern**

Research suggests that some adults see schools as a preferred contact point if they have concerns about the wellbeing or safety of a child either in the school their child attends or at another school. Parents in conflict may also share concerns about their partner with school staff. In some circumstances, therefore, school staff will find themselves receiving external information that indicates possible child abuse. In these circumstances it is important that, as with children disclosing, staff listen carefully and sympathetically, treat the matter seriously and as soon as is practically possible on the day, record, sign and date the information. They should also explain to the person that they cannot give a guarantee of confidentiality. Where the contact wishes to remain anonymous, the member of staff should refer the concerns to the Child Protection Co-ordinator who should explain to the referrer the actions that will be taken. As with a direct approach, a member of staff to whom a third party expresses concern should:

- **Recognise** that a concern is being raised and
- **Respond** to the person expressing the concern by telling them what they are going to do next.
- **Report** the matter to the Child Protection Co-ordinator.
- **Record** in detail what they have seen and heard and when they did so. Actual words used should be quoted where possible. Record the behaviour and demeanour of the person expressing the concerns, where this is done in person.

Those expressing the concerns may seek from the staff member a guarantee of confidentiality. No absolute guarantee of confidentiality can be given. The information disclosed may be of such a nature that the staff member must pass it on in order to protect a child. Whilst it may be possible to a certain extent to protect the identity of the person expressing concerns, it will be easier to take action to protect the child if that person is willing to be identified. If legal proceedings follow, it may be necessary to disclose the identity of that person. In all circumstances, the Child Protection Co-ordinator must ensure that the information is shared with other relevant agencies (health, police, Social Services – Children and Families), so that an early assessment can be made of any potential/actual harm to the child and whether further child protection enquiries are necessary.

## **3 An anonymous allegation is received**

Staff in receipt of anonymous allegations about child abuse, whether that child is a pupil in the school or not, should:

- **Record** in writing the words used, so far as possible, where the allegation is by telephone, or retain the paper, where it is in writing.
- **Report** the matter to the Child Protection Co-ordinator.

**Checklist for Staff - In all cases if:**

- you suspect a child may have been abused or is at risk of abuse or significant harm;
- a child discloses abuse;
- a third party expresses concerns to you;

**4 Non-recent child abuse (previously known as ‘Historical Abuse’)**

Refer to Section 7.22 - ‘Specific Circumstance Advice.’

**6.3 Action by Staff in Exceptional Cases**

By law, any person with concerns about a child has a right to make a report direct to the Children's Reporter where the concerns are such the child may need compulsory measures of care. In exceptional cases, where a member of staff feels that concerns about a child are not being taken seriously, or followed through appropriately or with sufficient speed, it is perfectly legitimate for that member of staff to refer the matter directly to the Head of School, the Chair of Governors or the Reporter.

**6.4 Action by the Child Protection Co-ordinator**

All cases of alleged or suspected abuse must be treated seriously. Some may require an urgent response. If the CPC is certain, or has very good reason to suspect or believe that a child has been abused or requires protection or is at risk of significant harm, he/she should follow their local Child Protection Procedures stating the concerns clearly and the basis for them.

In cases where there is a high degree of suspicion, or in cases where the issues are not so clear or so urgent, the following procedure can usefully be followed in order to focus and test the strength of concerns about a child. It should always be borne in mind that it is not the school's role to investigate the allegations or suspicions, but to gather together what information it has about a child and pass it to the Social Work (Children and Family Services) Department or police. Children should not be subject to questioning by a variety of school staff. It would be against good investigative procedures and best evidence for children to be subject to internal investigations and thereafter re-interviewed by Social Work (Children and Family Services) and police authorities. Schools, and in particular the Child Protection Co-ordinator are urged to establish relationships with Social Work (Children and Family Services) which will give them the confidence to seek guidance and advice when concerns arise.

The CPC should collate all relevant information held by the school on the child and complete Part 2 of the Child Protection Concern Form (see Appendix 6), sign and date it and include the reasons for the decision to make or not make a formal child protection referral to the statutory agencies. Referrals should be made in every case where there is any substantial suspicion. Proof is not required at this stage. If there is doubt about whether to refer, Social Work (Children and Family Services) should still be advised of the circumstances of the allegation and the school's doubts about it. Consideration should be given to the provision of support for the child and for the member of staff who made the report. The Head of School should send a brief report of the incident in confidence to the Chair of Governors or his or her deputy. The names of the people involved should not be disclosed in this report unless there are exceptional reasons for doing so.

## **6.5 Child Protection Stages**

Formal child protection measures can be broadly divided into a number of different stages:

- recognising actual or potential harm to a child;
- sharing concerns and initial information-gathering;
- joint investigation/assessment;
- medical examination and assessment;
- Child Protection Case Conference; 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. Investigating services are responsible for considering, at all stages, whether the child's safety is at risk.

## **6.6 A Child who is at Immediate Risk of Harm**

Where a child is felt to be in immediate danger the Head of School/Child Protection Co-ordinator 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.

## **6.7 The Inter-agency Referral Process**

When Social Work (Children and Family Services) or the police have received notification of a concern about a child and they have sufficient concerns that a child is possibly at risk of significant harm, they should initiate the Inter-Agency Referral Discussion Process (IRD). The core agencies engaged in the IRD process are Social Work (Children and Family Services), police and health. In some areas the local authority Education Department has a representative on the IRD.

The IRD is the first stage in the process of joint investigation following notification of a concern



about a child to the Social Services (Children and Families) or the police. It will include a need to share and exchange information, to carry out assessment and to make decisions to determine any risks to the child, any siblings of that child and any other child related to the child in question. It will also identify key workers and their specific roles and responsibilities. In practice, an IRD is not a single event, but rather a series of discussions and exchanges of information between the core agencies and any other service and/or agency which may be involved with the child and/or have relevant information relating to that child. This should not preclude any other agencies or individuals becoming involved. For example, education services may be involved in supporting the child in part of the investigation.

## **6.8 Joint Investigation/Assessment**

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. Guidance published introduced visual and audio-recording (VRI'S) of these joint investigative interviews.<sup>56</sup> The Police role is primarily to collect evidence of an offence, interview suspected abusers, charge where appropriate, and provide reports for both the Procurator Fiscal and the Children's Reporter. The primary role of the social worker is to assess risk to the child, take any necessary steps to secure the protection of the child and provide appropriate advice and assistance to the family.

### **6.8.1 Joint Investigation Interviews in Schools without Parental Consent or Child being taken from School for a Visually Recorded Interview**

The Head of School and the Child Protection Co-ordinator should know the local arrangements for the above as it may involve the child/young person being taken from school for a visually recorded interview (VRI) without parental consent or knowledge. It may also involve the interview taking place in school and the school will be asked to make specific facilities available. In such cases it is important that the Child Protection Co-ordinator discusses with the police and social worker who tells the parents/carers and what they are told. This is more important if the interview is going to last beyond the school day and there is the prospect of a parent/carer arriving at school to pick up their child or their child not arriving home on time.

## **6.9 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. The Child Protection Order authorises the applicant (normally the local authority) 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.

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<sup>56</sup> <http://www.gov.scot/Publications/2011/12/16102728/0>

The local authority may also 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 those with parental responsibility are preventing an assessment of the child being undertaken to confirm or refute that concern. The Child Assessment Order requires 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 wellbeing. The local 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. 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 (see Appendix 7 – Consent to Medical treatment).

## **6.10 Involving Children and Young People**

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. 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. Where a child is hearing-impaired or has other additional support needs, 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 believe that they are complicit in the abuse or not understand that what has happened to them is abuse.

## **6.11 Child Protection Case Conferences**

All Child Protection Co-ordinators should follow their local procedures. The function of all Child Protection Case Conferences (CPCCs) is to share information in order to identify risks to the child collectively and the actions by which those risks can be reduced. The participants should maintain an outcome-focused approach:

- ensuring that all relevant information held by each service or agency has been shared and analysed on an inter-agency basis;
- assessing the degree of existing and likely future risk to the child;
- considering the views of the child/parents/carers;
- identifying the child's needs and how these can be met by services and agencies;
- developing and reviewing the Child Protection Plan;
- identifying a Lead Professional;
- deciding whether to place or retain a child's name on the Child Protection Register; and
- considering whether a referral to the Reporter to the Children's Hearing is needed if this has not already been done.

### **6.11.1 Types of Child Protection Case Conferences**

There are four types of case conferences:

#### ***1. Initial CPCC***

The purpose of an initial CPCC is to allow representatives from across services to share information about a child for whom there are child protection concerns, jointly assess that information and the risks to the child, and determine whether there is a likelihood of significant harm through abuse or neglect that needs to be addressed through a multi-agency Child Protection Plan. 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.

Where it is agreed that a child is at risk of significant harm and that their name should be placed on the Child Protection Register, those attending the CPCC are responsible for developing and agreeing a Child Protection Plan, which will be incorporated into the Child's Plan, and identifying the core group of staff responsible for implementing, monitoring and reviewing the plan. The participants need to take account of the circumstances leading to the CPCC and the initial risk assessment. Due to the timescales for calling an Initial CPCC, there may only be time for an interim risk management plan; a more comprehensive risk assessment may still need to be carried out after the CPCC. In some instances, there will already be a multi-agency Child's Plan in place and this will need to be considered in light of the concerns about the child.

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 5 days' notice of the decision to convene a CPCC. Local guidelines should ensure there are clear arrangements in place for sharing information held by schools and ensuring education representation at meetings during school holidays. These arrangements need to be communicated effectively to staff within and across services.

#### ***2. The Pre-birth 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.

#### ***3. Review CPCC***

The purpose of a Review CPCC is to review the decision to place a child's name on the Child Protection Register or where there are significant changes in the child or family's circumstances. The participants will review the progress of the Child Protection Plan, consider all new information available and decide whether the child's name should remain on the Child Protection Register. The first review CPCC should be held within 3 months of the initial CPCC. Thereafter, reviews should take place 6-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 a Child's Plan, their name should be removed from the Child Protection

Register by the review CPCC. The child and their family/carers may still require ongoing support and this should be managed through the Child's Plan.

#### **4. Transfer CPCC**

These specifically cover the transfer of information about a child where a Child Protection Plan is currently in place. Only a review CPCC can deregister 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 ongoing 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 ongoing 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 need to go with the child (see Section 4.7).

#### **6.11.2 Invitations**

Participants should be given a minimum of five calendar day's notice of the decision to convene a child protection case conference wherever possible. Any member of staff attending a case conference should familiarise themselves with their local arrangements.

#### **6.11.3 Child Protection Case Conference Participants**

The number of people involved in a CPCC should be limited to those with a need to know or those who have a relevant contribution to make. All persons invited to a CPCC need to understand its purpose, functions and the relevance of their particular contribution. CPCCs are chaired by senior staff members in Social Work (Children's Services), experienced in child protection who will decide who should attend. 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 the child's paediatrician where applicable;
- police where there has been involvement with the child and/or parents or carers;
- the child;
- the parents; and
- support person for the family

Participants attending are there to represent their agency/service and share information to ensure that risks can be identified and addressed. They have a responsibility to share information and clarify other information shared as necessary.

#### **6.11.4 Provision of Reports**

Where possible reports and a chronology will be submitted ten calendar days prior to the CPCC except when the urgent need for a case conference does not permit it. Reports should be produced and co-ordinated to ensure that relevant information is effectively shared with conference participants and supports good decision-making. Invitees have a responsibility to share the content of the report(s) with the child and family in an accessible, comprehensible way. Consideration needs to be given as to the most appropriate means of sharing reports with the child and family and to when it should be done.

#### **6.11.5 Core Groups**

The initial core group meeting should take place within fifteen calendar days of the CPCC.

#### **6.11.6 Child Protection Plan**

Participants should receive a copy of the agreed child protection plan within five calendar days of the CPCC.

#### **6.11.7 Minutes**

Participants should receive the Minutes within 15 calendar days of the CPCC. To avoid any unnecessary delay in actions and tasks identified, the Chair should produce a record of key decisions and agreed tasks for circulation within one day of the meeting. This should be distributed to invitees who were unable to attend and members of the core group, as well as CPCC attendees. Staff attending should thoroughly check Minutes and notify the Chair in writing of any inconsistencies and return these to the Chair in writing within the timescales.

To avoid any unnecessary delay in actions and tasks identified, the Chair should produce a record of key decisions and agreed tasks for circulation within one day of the meeting. This should be distributed to invitees who were unable to attend and members of the core group, as well as CPCC attendees.

#### **6.11.8 Attendance of Parents/Carers and Children and Young People**

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

Consideration should be given to inviting children and young people to CPCCs. CPCCs can be uncomfortable for children to attend and the child or young person's age and the emotional impact of attending a meeting must be considered. Children and young people attending should be prepared beforehand so that they can participate in a meaningful way, and thought should be given to making the meeting as child and family friendly as possible. It is crucial that the child's or young person's views are obtained, presented, considered and recorded during the meeting, regardless of whether or not they are present. Where the child has a disability, consideration should be given to whether they will need support to express their views.

#### **6.11.9 Restricted Access Information**

Restricted access information is information that, by its nature, cannot be shared freely with the child, parents/carers and anyone supporting them. The information will be shared with the other participants at the CPCC. Such information may not be shared with any other person without the explicit permission of the provider. 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 the home address or school which is unknown to an ex-partner.

#### **6.11.10 Decisions**

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. In these circumstances, the decision-making needs to be subjected to independent scrutiny from a senior member of staff with no involvement in the case. The local inter-agency child protection procedures should give details as to how this will be achieved, including timescales. Local Guidance should provide clear pathways for any escalation of issues and dispute resolutions. Parents or carers will not be part of the decision making and as this is not a legal forum, they do not have a right of appeal.

## **6.12 The Child Protection Plan and Core Groups**

A Child Protection 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 task forward including parents or carers and the child themselves.

Children and their families need to understand clearly what is being done to support them and why. In addition, Child Protection Plans need to identify clearly:

- the agreed outcomes for the child or young person;
- key people involved and their responsibilities, including the Lead Professional and named practitioners;
- timescales;
- supports and resources required (in particular, access to specialist assistance);
- the agreed outcomes for the child or young person;
- the longer term needs of the child and young person;
- the process of monitoring and review; and
- any contingency plans.

Responsibility is shared for the Child Protection Plan. Each person involved should be clearly identified, and their role and responsibilities set out. To preserve continuity for the child and their parent(s)/carer(s), arrangements should be made to cover the absence through sickness or holidays of key people. All Child Protection Plans where there are current risks should have specific cover arrangements built in to make sure that work continues to protect the child. Plans should also include whether there may be a need for Compulsory Measures of Supervision. As part of this continuity, children and young people who are on the Child Protection Register should not be excluded from school unless there is a multi-agency discussion to identify risk factors and strategies to address these. 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 had a positive impact on the child.

Participants should receive a copy of the agreed Child Protection Plan within 5 calendar days of the CPCC. It is recognised that a full comprehensive risk assessment may not be achievable within the timescales of the initial CPCC or the first core group. Therefore, it should be recognised that the early Child Protection Plan may need to be provisional until a fuller assessment can be undertaken.

### ***Core Groups***

A core group is a group of identified individuals, including the Lead Professional, the child and their parents or carers, who have a crucial role to play in implementing and reviewing the Child Protection Plan. In child protection cases, the role of the Lead Professional will typically be

taken by the local authority social worker. The core group is responsible for ensuring that the plan remains focused on achieving better outcomes for the child 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 ongoing assessment of the needs of, and risks to, a child or young person who has a Child Protection Plan;
- implementing, monitoring and reviewing the Child Protection Plan so that the focus remains on improving outcomes for the child. 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 and parents or carers;
- activating contingency plans promptly when progress is not made or circumstances deteriorate;
- reporting to Review Child Protection Case Conferences 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 should take cognisance of their age and the emotional impact of attending a meeting to discuss the risks they have been placed at. Children 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, parents/carers to interact with agency and service providers. The core group will report back to the CPCC on progress on the Child Protection Plan. Where a core group identifies a need to make significant changes to the Child Protection Plan, they should notify the CPCC Chair within three calendar days.

### **6.13 The 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. The local authority may have its own register or maintain a joint register with other authorities. This is called the 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. The local authority Social Work Department 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 which should involve, where relevant, education staff. The Child Protection Register provides a central resource for practitioners concerned about a child's safety or care. The decision to place a child's name on the register should be 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. 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.

The local authority should inform the child's parents or carers and, where the child has sufficient age and understanding, the child, orally and in writing, about the information held on the register and who has access to it.

#### **6.14 Removing a Child from the Child Protection Register**

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 local authority should remove the child 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. When a child's name is removed from the register, the child and their family must be informed.

Removal of a child's name from the register should 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. Where appropriate, following deregistration a Child's Plan will take the place of a Child Protection Plan.

#### **6.15 Criminal Prosecution of Alleged Perpetrators of Abuse or Neglect**

Decisions regarding any criminal prosecution or gathering of further evidence will be taken by the Procurator Fiscal and the police. 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 should 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 alleged perpetrator has access. This information is vital to assist Procurators Fiscal and the court to make informed decisions about bail and any additional special conditions which may be required.

#### **6.16 Child Witnesses**

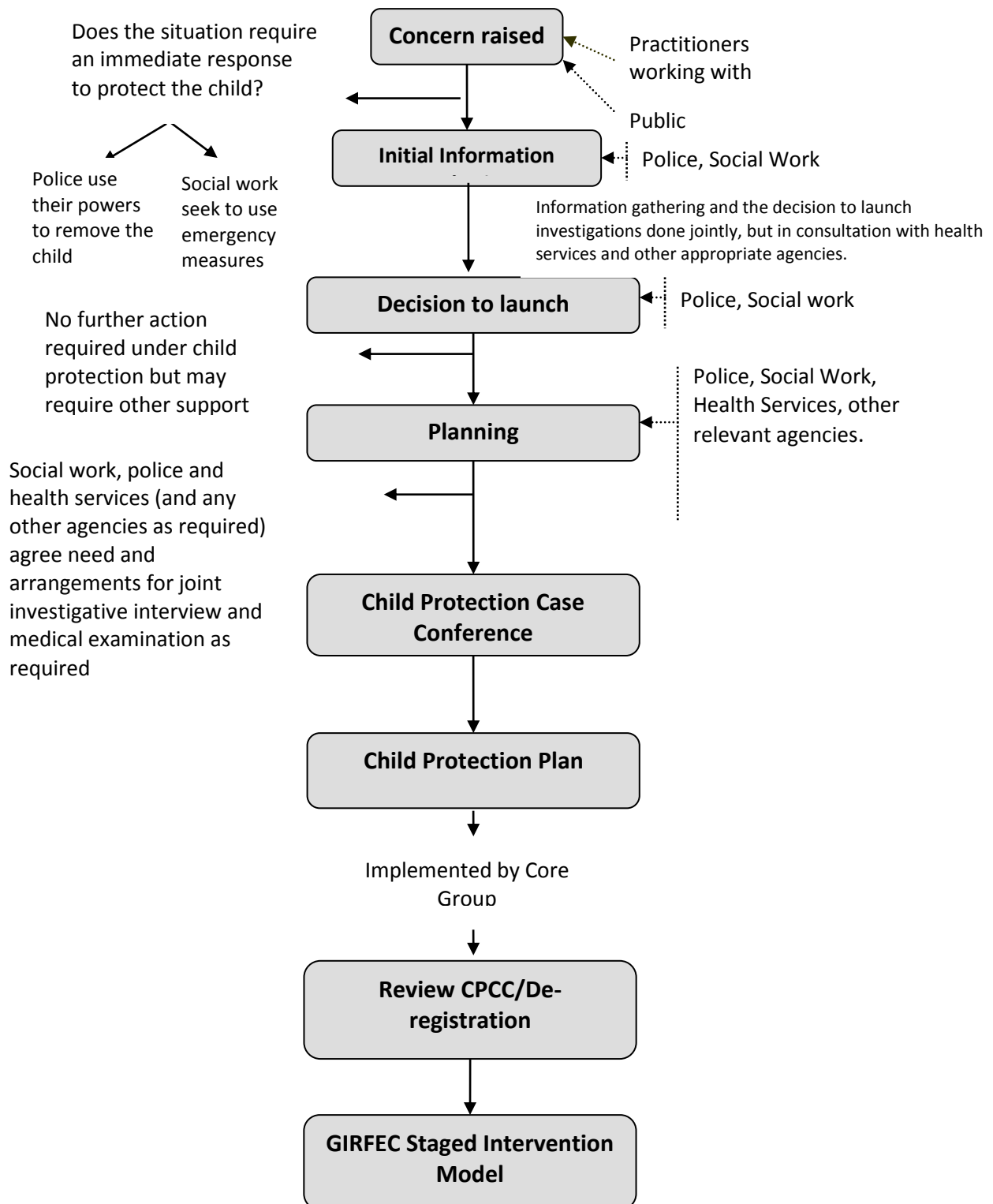
Special measures<sup>57</sup> for all child witnesses cited to attend court can include: having a support person present; screens so that the child cannot see the accused; a CCTV link from within the

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<sup>57</sup> <http://www.gov.scot/Publications/2005/04/04143522/35246>  
<http://www.gov.scot/Topics/archive/law-order/victims-witnesses/guidance-information/child-witnesses-1>

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. The person citing the witness (e.g. the Procurator Fiscal or defence lawyer) will make an application to the court which will decide which special measures are the most appropriate. The child's own views should also feed into the decision-making process; as part of the process, schools may be asked to complete a pro-forma on the child.

## 6.17 The Flowchart describes the Child Protection Process



## **7. CHILD PROTECTION IN SPECIFIC CIRCUMSTANCES: INDICATORS OF RISK**

This section gives additional information on dealing with specific circumstances that may impact adversely on children. Not all the indicators set out here are common; nor should their presence lead to any immediate assumptions about the level of risk for an individual child. Where identified, though, they should act as a prompt for all staff to consider how they may impact on a child and to refer to the Child Protection Co-ordinator for advice if there are concerns.

In the sections below, indicators of potential risk are considered separately but they will often – particularly for children in vulnerable circumstances – occur together. Where there are a number of risk factors in a child’s life, staff should pay particular attention to the cumulative impact of these.

### **7.1 Under-age Sexual Activity**

All Child Protection Co-ordinators should have received training and be familiar with the criteria set out in the Scottish Government guidance, *Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns*, (Scottish Government 2010).<sup>58</sup> Any decision made by the CPC should be informed by this Guidance and local procedures. The law continues to make clear that society does not encourage sexual intercourse in young people under 16 as it can be a cause of concern for their wellbeing. However, it does not follow that every case of under-age sexual activity has child protection concerns. It is therefore important to ensure that a proportionate response is made and that only appropriate cases are brought to the attention of social work and the police. Young people who are sexually active will be so for a number of reasons. In some cases the activity will be wholly consensual; in others in response to peer pressure, abuse or exploitation. They, therefore, have differing needs, and services and practitioners must provide a range of responses. The above Guidance covers legal issues and advises practitioners how they can strike a balance between assuring the freedom of young people to make decisions as well as protecting them from activity which could give rise to immediate harm and/or longer-term adverse consequences.

#### **7.1.2 Action by the Child Protection Co-ordinator**

##### ***Child under 13 or where the child was under 13 when the alleged abuse took place***

If the child is under the age of 13, the concerns must be passed on in accordance with local child protection procedures.

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<sup>58</sup> <http://www.gov.scot/Resource/Doc/333495/0108880.pdf>

### ***Older child aged over 13 and under 16***

If a member of staff is aware that a young person (i.e. 13 or over) is sexually active or is likely to become sexually active this should be reported to the Child Protection Co-ordinator. Where the circumstances indicate that a young person is, or could be, at risk of significant harm the CPC should make a child protection referral. In the context of under-age sexual activity, if there is a concern of a risk of harm as a result of sexual behaviour and/or relationships, this always overrides the professional requirement to keep confidentiality. In these circumstances, schools have a duty to act to make sure that the child or young person is protected.

Where it is not a child protection referral, the CPC should undertake a risk assessment using the Under Age Sexual Activity Risk Assessment Framework (see Appendix 8) to ensure that a proportionate and appropriate response is provided and the needs of the young person are effectively met. At the same time, such risk assessment must take full account of the issues of confidentiality and information sharing. Staff have a duty of care to ensure that the young person's health and emotional needs are addressed and to assess whether the sexual activity is of an abusive or exploitative nature. This might mean them collecting and sharing information and seeking advice from within the school or from other agencies and passing on information to the service best placed to assess the young person's needs. Where appropriate the CPC should inform the young person of this and seek their consent to share information. Even if there are no child protection concerns, the young person may still have worries or be in need of support in relation to their sexual development and relationships, which will require to be addressed either on a single agency or multi-agency basis.

### ***Sexual Activity where one Person is over 16 and the other over 13 and under 16***

The Scottish Government Guidance, *Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concern* **is not applicable** in the above situations. The law defines a person over 16 as an adult and someone over 13 and under 16 as an older child. Section 4 of the Guidance on the Sexual Offences (Scotland) Act 2009 details the offences and penalties in such situations.<sup>59</sup>

Where a Child Protection Co-ordinator is aware of sexual activity that falls into this category and the relationship is consenting and non-abusive and therefore requires a proportionate response (e.g. a 15 year old girl is pregnant and her boyfriend is 16; a 15 year old boy is in a consenting relationship with his 16 year old boyfriend) the proposed action should be discussed with the Head of School and the rationale for any decision taken recorded. It may be appropriate to use the Risk Assessment Framework to further assess the situation.

### ***Young people aged 16-18***

Over the age of 16, sexual activity is legal. However, the activity may not have been consensual or the young person might have vulnerabilities and related needs. Furthermore, the Sexual

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<sup>59</sup> <http://www.gov.scot/Resource/Doc/254429/0105624.pdf>

Offences (Scotland) Act 2009 states that young people under the age of 18 could be subject to a 'sexual abuse of trust' – e.g. if the young person has had sexual relations with a teacher or a residential worker who has caring responsibilities for the child or for children in the institution in which the child is being cared for or taught and is over the age of 18. It is also worth noting that in cases where young people are involved in prostitution or pornography, Section 9 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 provides that it is an offence for a person to pay for the sexual services (e.g. prostitution) provided by a child under the age of 18, and sections 10-12 provide that it is an offence to cause, incite, control, arrange or facilitate the provision by a child under the age of 18 of sexual services, or their involvement in the making of pornography.

The Child Protection Co-ordinator should also bear in mind that there may be opportunities to discuss concerns relating to under-age sexual activity on an informal, 'hypothetical' basis - whether for general advice on procedures and processes or to ascertain whether information they hold should be shared on a wider basis. These types of discussion can help increase knowledge and skills base and help promote the development of inter-agency relations and understanding.

It is essential that young people between 16 and 18 do not fall through the gaps in services and that the key priority at all stages is to ensure that the young person is provided with support and protection if there is a concern. These circumstances should be taken into account to ensure that the young person gets the support required, either from child or adult protection services.

### **7.1.3 Health Service Staff/School Nurse**

Sexual Health Services have long recognised that assurances of confidentiality for children and young people are essential if they are to be encouraged to seek their help and advice. Consequently, while sexual health practitioners, including qualified school nurses, are encouraged to help young people to speak to their parents/carers and involve them in their decision-making, ultimately, these practitioners are not required to inform the parents or carers at any stage of giving them advice or treatment.

A qualified school nurse could give the young person confidentiality under Section 2(4) of the Age of Legal Capacity (Scotland) Act 1991 and not share this with school staff. However, he/she would have to breach the young person's confidentiality if they assessed the young person of being at risk of significant harm and report to the school's Child Protection Co-ordinator or again if they had doubts share the information on a hypothetical basis to preserve confidentiality.

### **7.1.4 Parents and Carers**

Staff should encourage children and young people to share information with their parents or carers where it is safe to do so. This is in recognition of the responsibilities, rights and duties of

parents to direct and guide their children in the exercise of their rights, consistent with the young person's evolving capacities.

#### **7.1.5 Action by the Child Protection Co-ordinator – When not a Child Protection Referral**

If the result of the Risk assessment is that the sexual behaviour is not abusive or exploitative, or that there are concerns but they do not reach the level of significant harm e.g. their use of drugs/alcohol, the environment in which they seek sexual contacts etc, then the CPC should:

- ask the young person to share it with their parents or carers;
- uphold the confidentiality rights of the young person; and
- provide practical assistance and advice as required within their own agency or, with their permission, refer them to the appropriate clinical or support services e.g. sexual health or alcohol advice services

In these scenarios, a single-agency decision-making process is normally appropriate. Where staff are not in a position to meet the individual's immediate health needs, having due regard to consent issues, it is within the law, without parental consent or even knowledge, to provide information, make an appointment or accompany the individual to an agency which is able to meet their immediate needs.

Normally, young people would be encouraged to make such medical appointments outside school hours by themselves. Heads of School are ultimately responsible for the whereabouts of all pupils. Where a school is considering accompanying a young person to a sexual health agency, they should have a protocol in place as to who is involved in the decision. This is particularly so in Boarding Schools where the duty of care is greater.

#### **7.1.6 Recording**

The needs of the young person are the primary consideration when staff decide upon the relevant and proportionate sharing of information. Staff recording information or releasing information to other parties and persons have legal and professional duties to ensure that the information recorded is accurate, relevant and sufficient for its purpose and that any disclosure is lawful – either through the consent of the young person concerned or where there is the potential of harm to themselves or others which outweigh lack of consent. Where a decision is made not to share information with parents or carers, the Child Protection Co-ordinator should ensure they record the reasons for this. If they have any doubt they should share their concerns with the Head of School.

In all circumstances, the Child Protection Co-ordinator should make a record of events and decisions, in line with school and local procedures. The record should contain all essential details, the decisions taken and the reasons behind them and any subsequent action.

## 7.2 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 also occur in same-sex relationships. Children and young people living with domestic abuse are at increased risk of significant harm, through 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. Domestic abuse can have a profound impact on children, both in the short and long term.<sup>60</sup>

The impact of domestic abuse on a child will vary, depending on factors including the frequency, level of coercion, 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. Many services working with the victims of domestic abuse advise that a Child Safety Plan is drawn up for the victim and any involved children. In these cases the school is often part of this plan.

The best way to keep both children and non-abusive parents or 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 reluctance of victims to come forward, it is crucial that staff are aware of the signs of domestic abuse and routinely make appropriate enquiries. It should be noted that the Disclosure Scheme for Domestic Abuse Scotland empowers both men and women with the **Right to Ask**<sup>61</sup> about the background of their partner, potential partner or someone who is in a relationship with someone they know, and there is a concern that the individual may be abusive

## 7.3 Parental Problematic Alcohol and Drug Misuse

Problematic parental substance misuse can involve alcohol and/or drug misuse (including prescription as well as illegal drugs). Alcohol and/or drug misuse during pregnancy can have significant health impacts on the unborn child. The risks to, and impact on, children of alcohol/drug-misusing parents and carers are known and well-researched and can also result in sustained abuse, neglect, maltreatment, behavioural problems, disruption in primary caregiving, social isolation and stigma of children. Parents/carers with drug or alcohol problems often lack the ability to provide structure or discipline in family life. Poor parenting can impede

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<sup>60</sup><http://www.gov.scot/resource/doc/228073/0061720.pdf>

<sup>61</sup> <http://www.scotland.police.uk/contact-us/disclosure-scheme-for-domestic-abuse-scotland/>



child development through poor attachment and the long-term effects of maltreatment can be complex. The capability of parents or carers to be consistent, warm and emotionally responsive to their children can be undermined.<sup>62</sup>

It is important that all practitioners working with parents/carers affected by problematic drug and/or alcohol use know the potential impact that this has on children, both in terms of the impact on 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. Local Child Protection Committees have policies and guidance in place for the identification, assessment and management of children affected by alcohol and/or drug misuse.

## **7.4 Young Carers**

There are an estimated 93,000 carers aged 4-24 in Scotland according to the most accurate estimate from the Scottish Health Survey (SHeS). It is likely that this is an underestimate as not all young carers will identify as a young carer, either because they do not see themselves in that role or because they are concerned about revealing their caring responsibilities.<sup>63</sup> Young carers are a diverse group of all ages and backgrounds and live in all areas of Scotland who provide help or support to family members because of either long term physical or mental ill health, (including parents with substance misuse problems) and disability. In the recent 'Young carers: Review of research and data',<sup>64</sup> the findings show that:

- Being a young carer tends to be associated with poorer health and well-being. This is true for self-reported health, long term conditions or disabilities and mental health conditions. Although those providing more hours of care appear to have worse self-reported health, it is not possible to say the extent to which this is directly related to caring responsibilities. Other factors such as deprivation, gender and support networks are also likely to have an impact.
- Young carers may face challenges in participating in social or leisure activities and may feel isolated as a result.
- Caring may adversely affect a young person's education but there is inconsistent evidence on the extent of the impact. The issues most commonly found to affect young carers' education were school attendance, tiredness and bullying. Schools therefore have an important role in helping to support young carers.
- Caring responsibilities may influence education and employment choices and flexibility is an important factor in enabling young carers to balance different commitments. The negative impact of combining caring and education may have potentially significant enduring consequences for workforce participation and geographic and social mobility, with the risk of compounding deprivation and inequalities.

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<sup>62</sup> <http://www.gov.scot/Publications/2013/04/2305>

<sup>63</sup> <http://www.careinfoscotland.scot/topics/young-carers-and-young-adult-carers/>

<sup>64</sup> <https://beta.gov.scot/publications/young-carers-review-research-data/documents/00514848.pdf>? (2017)

- The evidence is stronger on the challenges facing young carers than it is on effective support and interventions. However, it does highlight the importance of recognition and an assessment of need and that effective support can be either or both for the young carer or for the cared person.
- Evidence suggests that children and young people engaged in young carer support projects feel recognised, supported and valued. Although schools are also seen as a potentially valuable avenue for support the evidence on effective support and interventions in schools is underdeveloped.
- Young carers can be positive about their caring role and feel that it brings benefits.

Given the impact of caring on young people, access to an assessment of their needs and support is critically important. Improving access to assessments and support requires awareness of young caring amongst professionals and service providers, and ensuring that assessments and support are provided in a way that is sensitive to young people's concerns about being identified as a carer or about requiring help. Young carers can face challenges in balancing their caring responsibilities with education and employment requirements and opportunities. This has potentially profound long-term effects on socio-economic and health outcomes and on inequality. It is possible that young carers may be more likely to experience problems at school and have lower attainment although this will not apply to all young carers. Schools therefore have an important role in being aware of and helping to support young carers.

## **7.5 Disability**

The definition of 'children with a disability' includes children and young people with a comprehensive range of physical, emotional, developmental, learning, communication and health care needs. 'Children with a disability' are defined as children in need under section 93(4) of the Children (Scotland) Act 1995. Children with a disability are not only vulnerable to the same types of abuse as their able-bodied peers, they are also more vulnerable to that abuse. 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 children with a disability is significantly under-reported.

Children with a disability 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 children with a disability are abused. Children with a disability 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 or 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 with a disability 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 children with a disability and their families. Local child protection committees should have protocols in place that reflect the complexity of transition from child to adult services.

Children can also be affected by the disability of those caring for them. 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 more information, see the *Safeguarding Children with a Disability: Practice Guidance*.<sup>65</sup>

## **7.6 Non-engaging Families**

Evidence shows that some adults will deliberately evade practitioner interventions aimed at protecting a child. 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 or 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 e.g. missing appointments;
- refusing to allow access to the child or to the home;
- active non-compliance with the actions set out in the Child's Plan;
- 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, preventing 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. 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

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<sup>65</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/190544/00374-2009DOM-EN.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/190544/00374-2009DOM-EN.pdf)

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. In what will often be challenging situations, staff may need access to additional or specialist advice to inform their assessments and plans.

## **7.7 Children and Young People Experiencing or Affected by Mental Health Problems**

Two separate but not unconnected issues should be considered in identifying, assessing and managing the risks faced by children affected by mental health problems:

- children and young people who are experiencing mental health problems themselves; and
- children and young people whose lives are affected by the mental illness or mental health problems of a parent/carer.

### ***Children and young people experiencing mental health problems***

The emotional wellbeing of children and young people is just as important as their physical health. Most children grow up mentally healthy, but certain risk factors make some more likely to experience problems than others. Evidence also suggests that more children and young people have problems with their mental health today than 30 years ago. Over the past 15 years, the incidence of self-harm and suicide among young people has increased. Traumatic events in themselves will not usually lead to mental health problems, but they may trigger problems in those children and young people whose mental health is not robust. Changes, such as moving home or changing school or academic pressures, can act as triggers. Teenagers often experience emotional turmoil as their minds and bodies change and develop. Some find it hard to cope and turn to alcohol or drugs.

For some young people, mental health problems will severely limit their capacity to participate actively in everyday life and will continue to affect them into adulthood. Some may go on to develop severe difficulties and display behaviour that challenges families and services, including personality disorders. A small number of children with mental health problems may pose risks to themselves and others. In the most severe cases this can include self-harm and suicide. For some young people, their vulnerability, suggestibility and risk levels may be heightened as a result of their mental illness. For others, a need to control, coupled with lack of insight into, or regard for, others' feelings and needs, may lead to them preying on the vulnerabilities of other children. It is imperative that services work closely together to address these issues and mitigate risks for these children and for others.

Children separated from their family may be particularly vulnerable to mental health problems, particularly where they have experienced traumatic events. These can be compounded by feelings of alienation, loneliness, disorientation and 'survivor's guilt'. Many will have no awareness of the support available to them, making it difficult for them to access services.

Certain risk factors make some children and young people more likely to experience mental health problems than others. These include:

- having a long-term physical illness;
- having a parent or carer who has had mental health problems, problems with alcohol/drugs or a history of offending behaviour;
- experiencing the death of someone close to them;
- having parents who separate or divorce;
- having been severely bullied or physically or sexually abused;
- living in poverty or being homeless;
- having a learning disability;
- experiencing discrimination, perhaps because of their race, nationality, sexuality or religion;
- acting as a carer for a relative;
- having long-standing educational difficulties; and
- forming insecure attachments with their primary carer.

Children and young people can experience a range of mental health problems, from depression and anxiety through to psychosis. While most will recover, some are left with unresolved difficulties or undiagnosed illnesses that can follow them into adult life. Child protection is a crucial component of the service response to children and young people experiencing mental health problems. Children and young people experiencing such difficulties must have access to the right support and services, and know that their issues are being taken seriously. The same is true for parents and carers who may be bewildered or frightened by their child's behaviour or concerned that they are the cause of such behaviour.

As part of the Millennium Cohort Study (this study is tracking more than 19,000 children born in the UK in 2000 to 2001). Parents completed surveys when the children were aged 3, 5, 7, and 11 years. In this survey<sup>66</sup> of young people who are now 14, the participants completed a questionnaire about their mental health as did their parents about their children's mental health (children were not clinically diagnosed to see if they suffered from depression). The findings were correlated. These showed that nearly a quarter (24%) of girls and 9% of boys are depressed and an association and between lower income families, there was a higher prevalence of mental health difficulties as well as that children's assessment of their own mental health often varied from their parents. This report highlighted the need for children and young people to access services early and for access to support including assessment and counselling services. Childline, in response to similar concerns, has produced a '*For Me*' App which is the first app to provide direct counselling to young people through a mobile device and it is free to download.

Child and Adolescent Mental Health Services (CAMHS) can provide an important resource in helping children and young people overcome the emotional and psychological effects of abuse and neglect. However, it is important that children and young people's mental health is not

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<sup>66</sup> [http://www.ucl.ac.uk/news/news-articles/0917/200917\\_girls\\_deprssion](http://www.ucl.ac.uk/news/news-articles/0917/200917_girls_deprssion)

seen solely as the preserve of psychiatric services; the causes of mental ill-health are bound up with a range of environmental, social, educational and biological factors. Waiting to access CAMHS should not be a justification for inactivity on the part of other agencies.

'See Me' is Scotland's National Campaign to end stigma and discrimination associated with mental health.<sup>67</sup> Other support can be found for professionals, parents and children and young people on the 'Young Minds' website.<sup>68</sup> It also includes very helpful information and resources on the typologies and signs of various mental health conditions as well as a Helpline.

### ***Children and young people affected by parental mental health problems***

It is not inevitable that living with a parent/carer with mental health issues 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. These include:

- the parent/carer being unable to anticipate the needs of the child or put the needs of the child before their own;
- the child becoming involved in the parent/carer's delusional system or obsessional compulsive behaviour;
- the child becoming the focus for parental aggression or rejection;
- the child witnessing disturbing behaviour arising from the mental illness (often with little or no explanation);
- the child being separated from a mentally ill parent, for example because the latter is hospitalised; and
- the child taking on caring responsibilities which are inappropriate for his/her age.

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. A number of other factors may need to be considered, including the attachment relationship and any instances of domestic abuse. Services involved with the parent/carer should consider the impact of these factors on the child's needs. Where concerns are identified, these should be shared with Social Work (Children and Families Services).

The stigma associated with mental health problems means that many families are reluctant to access services because of a fear about what will happen next. Parents or carers may worry

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<sup>67</sup> [www.seemescotland.org](http://www.seemescotland.org)

<sup>68</sup> [youngminds.org.uk/](http://youngminds.org.uk/)

about being judged and that they will be deemed incapable of caring for their children. Many will therefore view asking for services or support as a high-risk strategy <sup>69</sup>

## **7.8 Children and Young People who Display Harmful or Problematic Sexual Behaviour**

Harmful or problematic sexual behaviour in children and young people can be difficult to identify and evaluate. It is not always easy to distinguish between what is abusive and/or inappropriate and what constitutes normal childhood exploration or adolescent experimentation. Professionals' ability to determine if a 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 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 gender of victims. 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 form a particularly vulnerable, and often overlooked, group who may need specific types of interventions. Where schools are unclear if the behaviour is inappropriate or abusive, they should always take advice.

Where abuse of a child or young person is alleged 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 problematic 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. The interface with child protection processes, and occasionally with adult protection, also needs to be considered. All cases need to be considered on an individual basis and an appropriate, proportionate and timely risk assessment should be carried out. The two key aims of addressing concerning sexual behaviour are risk management and risk reduction.

For further details of interventions refer to Section 8.3 – Social Work (Youth Justice Services).

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<sup>69</sup> [www.gov.scot/Publications/2005/10/2191333/13337](http://www.gov.scot/Publications/2005/10/2191333/13337)

## 7.9 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.'<sup>70</sup> 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. The procedure is usually carried out on children aged between four and ten years. A sentence of 14 years' imprisonment can be imposed. There are also several options that should be considered to protect children and prevent female genital mutilation occurring including Child Protection Orders. 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. 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. 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. Nevertheless, female genital mutilation should always be seen as a cause of significant harm and child protection procedures should be implemented.<sup>71</sup>

### ***Possible indications that FGM may be about to take place:*<sup>72</sup>**

A child from a Community that is known to perform FGM may:

- Talk about going to a country where the procedure is prevalent.
- Confide that she is to have a special procedure or celebration.

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<sup>70</sup> [www.legislation.gov.uk/asp/2005/8/contents](http://www.legislation.gov.uk/asp/2005/8/contents)

<sup>71</sup> The Scottish Government [www.educationscotland.gov.uk](http://www.educationscotland.gov.uk) issued a letter on Female Genital Mutilation to Headteachers in February 2014 which contains links to useful resources  
<http://www.gov.scot/Resource/0044/00446674.pdf>

<sup>72</sup> [www.womenssupportproject.co.uk/vawtraining/content/femalegenitalmutilation/277,234](http://www.womenssupportproject.co.uk/vawtraining/content/femalegenitalmutilation/277,234)



### ***Possible indications that FGM may have already taken place***

A child from a community known to perform FGM may:

- spend long periods of time away from the classroom during the day with bladder or menstrual problems
- have prolonged absences from school plus a noticeable behaviour change
- seek to be excused from physical exercise without the support of their GP

### **7.10 Honour-based Violence and Forced Marriage**

Honour-based violence is a spectrum of criminal conduct with threats and abuse at one end and honour killing at the other.<sup>73</sup> 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 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. 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 are high. Some of the potential indicators of honour-based violence and forced marriage are listed below.

#### ***Education:***

- Absence and persistent absence from education.
- Request for extended leave of absence and failure to return from visits to country of origin.

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<sup>73</sup> [www.cjp.org.uk/news/archive/launch-of-the-acpo-honour-based-violence-strategy-22-10-2008/](http://www.cjp.org.uk/news/archive/launch-of-the-acpo-honour-based-violence-strategy-22-10-2008/)

- 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.

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.

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. Cases of forced marriage may initially be reported to social work or police as cases of domestic abuse.

### **7.11 Fabricated or Induced Illness**

Fabricated or induced illness in children is not a common form of child abuse. Although it can affect children of any age, fabricated and induced illness is most commonly identified in younger children. Where concerns do exist about fabricated or induced illness in a child, a 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.

### **7.12 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 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. Where the investigation establishes that there are child protection concerns and that other school age children in the family may be at risk of significant harm, schools should be informed and be involved in any subsequent Child Protection Case Conference.

### **7.13 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.

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

Several high profile cases 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 the following:

- *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 off-line.
- *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 (see section 7.15 - 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.
- *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, residential school or elsewhere. Reports of organised abuse are often made historically.

### ***Planning considerations***

Some child protection cases are particularly complex because they can uncover, or be shown to be linked with, other cases of suspected or reported 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. Police and Social Work (Children and Family Services) services should 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 should be involved in these discussions.

Parents or 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.

### **7.15 Child Trafficking**

Child trafficking typically exposes children (up to the age of 18) to continuous and severe risk of significant harm. It involves the recruitment, transportation, transfer, harbouring and/or receipt of a child for purposes of exploitation. This definition holds whether or not there has been any coercion or deception, as children are not considered capable of informed consent to such activity. It applies to activity within a country as well as between countries.

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. 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<sup>74</sup> 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 both UK nationals and/or migrant children and to both boys and girls. Practitioners should keep them in mind when working with children and making an initial assessment. The indicators do not replace

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<sup>74</sup> [www.gov.scot/Topics/archive/law-order/humantraffick/ChildTraffickingForm2](http://www.gov.scot/Topics/archive/law-order/humantraffick/ChildTraffickingForm2)

child protection investigations and the presence, or otherwise, of trafficking suspicions should not preclude the standard child protection procedure being implemented.

### **7.16 Child Sexual Exploitation**

The sexual exploitation of children and young people is an often hidden form of children sexual abuse, with distinctive elements of exploitation and exchange. In practice, the sexual exploitation of children and young people under 18 might involve young people being coerced, manipulated, forced or deceived into performing and/or others performing on them, sexual activities in exchange for receiving some form of material goods or other entity (for example, food, accommodation, drugs, alcohol, cigarettes, gifts, affection). Sexual exploitation can occur through the use of technology and without the child's immediate recognition.

In all cases those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources. Violence, coercion and intimidation are often common features; involvement in exploitative relationships being characterized in the main by the child/young person's limited availability of choice resulting from their social, economic and/or emotional vulnerability. In some cases, the sexual activity may just take place between one young person and the perpetrator (whether an adult or peer). In other situations a young person may be passed for sex between two or more perpetrators or this may be organised exploitation (often by criminal gangs or organised groups). Staff have a responsibility to follow local child protection procedures for reporting and sharing these concerns.<sup>75</sup>

### **7.17 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 children present distinctive challenges to practitioners supporting children. A looked-after child may be placed with kinship carers, foster carers or in a residential 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

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<sup>75</sup> [www.gov.scot/Resource/0046/00463120.pdf](http://www.gov.scot/Resource/0046/00463120.pdf).

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.

### **7.18 Children and Young People who Place Themselves at Risk**

Some children and young people place themselves at risk of significant harm by 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 consideration is given 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 (See Section 7.1 - Under-age Sexual Activity);
- sexual exploitation;
- problematic or harmful sexual behaviour;

- violent behaviour; and
- criminal activity.

### 7.19 Children and Young People who are Missing

Describing a child or young person as 'missing' can cover a range of circumstances. A child, young person or family (including unborn children) can be considered as missing in different contexts:

- 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).
- 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) as well as 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:

- *Parental abduction*  
A parent may fail to return a child, 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:
  - (a) keep them safe;
  - (b) ensure an appropriate and proportionate response to their needs;
  - (c) meet statutory obligations for anyone under the age of 18 who run away from substitute care.

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*  
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.<sup>76</sup>

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'.<sup>77</sup>

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<sup>76</sup> <http://www.gov.scot/resource/doc/207380/0055026.pdf>

<sup>77</sup> Schools should check what protocols their local Child Protection Committee has in place.



## 7.20 Arrangements for Child Protection in the Armed Services

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. It will normally be the local authority social worker who makes the first contact 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 (see Appendix 9 - Arrangements for Child Protection in the Armed Services).

## 7.21 Prevent Duty Guidance: for Scotland

The above guidance<sup>78</sup> covers the duty in the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism. All schools should be willing to undertake *Prevent* awareness training and would be expected to have robust procedures in place for sharing information about vulnerable individuals in line with Child Protection Procedures.<sup>79</sup> There is no such thing as a 'typical extremist' and those involved in extremism come from a range of backgrounds and experiences. Some vulnerable factors may include:

- *Identity Crisis* - Distance from cultural/ religious heritage and uncomfortable with their place in the society around them.
- *Personal Crisis* – Family tensions; sense of isolation; adolescence; low self esteem; disassociating from existing friendship group and becoming involved with a new and different group of friends; searching for answers to questions about identity, faith and belonging.
- *Personal Circumstances* – Migration; local community tensions; events affecting country or region of origin; alienation from UK values; having a sense of grievance that is triggered by personal experience of racism or discrimination or aspects of Government policy.
- *Unmet Aspirations* – Perceptions of injustice; feeling of failure; rejection of civic life.
- *Criminality* – Experiences of imprisonment; poor resettlement/ reintegration, previous involvement with criminal groups.

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<sup>78</sup>[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/445978/3799\\_Revised\\_Prevent\\_Duty\\_Guidance\\_\\_Scotland\\_V2.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/445978/3799_Revised_Prevent_Duty_Guidance__Scotland_V2.pdf)

<sup>79</sup> The 'Prevent' strategy is currently under review.

## **7.22 Non-recent Child Abuse (previously known as 'Historical Abuse')**

Non-recent abuser refers to allegations of 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 allegations of abuse in early childhood.

If a school receives a non-recent allegation of abuse, it is a matter for the police to investigate. Any reasonable professional concern that a child may be at risk of harm will always over-ride a professional requirement to keep information confidential. This may be in a professional capacity such as in a school/residential setting, within a personal family setting or in the wider community.

When a report of a non-recent allegation of 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).

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.

## **8. PUBLIC BODIES: ROLES AND RESPONSIBILITIES FOR CHILD PROTECTION**

### **8.1 Child Protection Committees**

Child Protection Committees are locally-based, inter-agency strategic partnerships responsible for the design, development, publication, distribution, dissemination, implementation and evaluation of Child Protection policy and practice across the public, private and wider third sectors in their locality. Their role, through their respective local structures and memberships, is to provide individual and collective leadership and direction for the management of child protection services across Scotland. They work in partnership with their respective Chief Officers' Group and the Scottish Government to take forward Child Protection policy and practice across Scotland within the wider GIRFEC framework.

The functions of a Child Protection Committee are continuous improvement, strategic planning, public information and communication. Under the aegis of the local Child Protection Committee, all agencies that work with children and their families have a shared responsibility for protecting children and safeguarding their wellbeing. Each has a different contribution to make to this common task. These include: identifying concerns; sharing relevant information; contributing to risk assessments and Child Protection Plans; and, in some cases, actively contributing to investigations and providing specialist advice or support.

### **8.2 Social Work (Children and Family Services)**

Children and Family Services have a duty to safeguard and promote the wellbeing of children in need in their area, including children with a disability<sup>80</sup> and, insofar as is consistent with that duty, to promote the upbringing of children by their families by providing a range and level of services appropriate to children's needs. When the local authority receives information which suggests that a child may be in need of compulsory measures of supervision, Social Work (Children's Services) will make enquiries and give the Children's Reporter any information they have about the child. In fulfilling the local authority's responsibilities to children in need of protection, Social Work (Children's Services) also have a number of key roles including co-ordinating multi-agency risk assessments, arranging Child Protection Case Conferences, maintaining the Child Protection Register and supervising children on behalf of the Children's Hearing. Where children are in need of protection and/or in danger of serious exploitation or significant harm, a registered social worker will be accountable for:

- carrying out enquiries and making recommendations where necessary as to whether or not the child or young person should be the subject of compulsory protection measures;
- implementing the social work component of the Child Protection Plan and taking appropriate action where there is concern that a multi-agency plan is not being actioned; and

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<sup>80</sup> This guidance refers to 'children with a disability' throughout, in keeping with the terminology used in line with the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002.

- making recommendations to a Children's Hearing or court as to whether the child should be accommodated away from home.<sup>81</sup>

Social workers in Children's Services also either directly provide, or facilitate access to, a wide range of services to support vulnerable children and families, increase parents' competence and confidence, improve children's day-to-day experiences and help them recover from the impact of abuse and neglect. For children in need of care and protection, social workers usually act as the Lead Professional, co-ordinating services and support as agreed in the Child Protection Plan.

### **8.3 Social Work (Youth Justice Services)**

In 2014, the Scottish Government published guidance for the assessment and management of young people who present a risk of harm through sexually harmful and/or violent behaviour.<sup>82</sup> This guidance also forms part of the Scottish Government's 'Whole System Approach' to addressing the offending behaviour of young people putting in place a streamlined and consistent planning, assessment and decision making process for young people involved in offending to ensure they receive the right help at the right time. This approach works across all systems and agencies. It brings together this government's key policy frameworks into one holistic approach to deal with young people who offend. The Framework for Risk Assessment, Management and Evaluation (FRAME), sets out the standards of risk practice which apply to children and young people involved with offending behaviour.

This was followed by 'Preventing Offending: Getting It Right for Children and Young People'<sup>83</sup> which was published in 2015 for assessing and managing risk for the small number of young people posing the greatest risk to themselves and others is a priority area in the strategy. Approaches with children and young people who offend will often go hand in hand with protective work: many children and young people who display offending behaviours are also highly vulnerable and may have experienced crime and trauma in their own lives. A small proportion of young people may become involved in serious offending with little or no indication in their early lives or environment as to why this occurred. However, for others, it is increasingly recognised that negative early life experiences can leave some children extremely vulnerable to environmental pressures and this can contribute to the emergence of violence and/or other forms of harmful or anti-social behaviours in childhood and later life. This is relevant to any consideration of risk assessment and management: an assessment of their vulnerability as well as the risk of harm they may present to others needs to be taken into account. Youth Justice Staff work with children and young people involved in offending behaviour. Such 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

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<sup>81</sup> [www.gov.scot/Publications/2010/03/05091627/2](http://www.gov.scot/Publications/2010/03/05091627/2)

<sup>82</sup> [www.gov.scot/Publications/2014/12/6560?\\_ga=2.101897601.1457282123.1521453250-1360350981.1517492391](http://www.gov.scot/Publications/2014/12/6560?_ga=2.101897601.1457282123.1521453250-1360350981.1517492391)

<sup>83</sup> [beta.gov.scot/publications/preventing-offending-getting-right-children-young-people/](http://beta.gov.scot/publications/preventing-offending-getting-right-children-young-people/)

assessments as well supporting Child 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.

#### **8.4 Social Work (Criminal Justice Services)**

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

See also Section 8.6.2 – Multi-agency Public Protection Arrangements (MAPPA).

#### **8.5 Adult Support and Protection**

Adult services include a range of specialist provisions for particular groups, including adults at risk and in need of support and/or protection. The Adult Support and Protection (Scotland) Act 2007 introduced new duties and powers to safeguard adults who may be at risk of harm. It places a duty on specified organisations to co-operate in investigating suspected or actual harm and introduces a range of protection orders. It also provides a legislation framework for the establishment of Adult Protection Committees across Scotland.

##### ***Definition of an 'adult at risk'***

Under the Adult Support and Protection (Scotland) Act 2007 an 'adult at risk' means a person aged sixteen years or over who:

- (a) is unable to safeguard their own wellbeing, property, rights or other interests;
- (b) is at risk of harm; and
- (c) because they are affected by disability, mental disorder, illness or physical mental infirmity, are more vulnerable to being harmed than adults who are not so affected.

All of the above criteria must apply to identify an individual as an 'adult at risk'. Adult and Child Protection services interact in numerous ways. Co-ordination and collaboration between both sets of services is crucial at both individual case and wider service level. Issues of consent are of particular significance here as the young person, if over 16, may choose not to accept the services offered.

#### **8.6 Police Scotland**

The police have a general duty to protect the public and investigate on behalf of the Procurator Fiscal, where they believe that a criminal offence may have been committed. They will provide any information that will assist the Procurator Fiscal to decide whether a criminal prosecution

should take place. The police will refer a child to the Children's Reporter if they believe that they may be in need of compulsory measures of supervision.

In an emergency, the police have the specific power under the Children's Hearings (Scotland) Act 2011 to ensure the immediate protection of children believed to be suffering from, or at risk of, significant harm. It should be borne in mind that these measures are used in emergency situations and only last 24 hours. Where a child is removed to a place of safety, the local authority may seek a Child Protection Order to ensure the ongoing protection and wellbeing of that child.

### **8.6.1 Specialist Public Protection Units**

Every area across Scotland has a dedicated Public Protection Unit staffed by specialist officers. The police are responsible for investigation and for gathering evidence in criminal investigations. This task may be carried out in conjunction with other agencies, including Social Work (Children's Services) and medical practitioners but the police are ultimately accountable for conducting criminal enquiries. The police hold important information about children who may be at risk of harm or significant harm, as well as about those who cause such harm. They will share this information and intelligence with other organisations when required to protect children or help other agencies carry out early intervention in response to concerns about wellbeing. Where appropriate, the police should attend and contribute to Child Protection Case Conferences.

Police also liaise with a number of adult services where investigations dealing with adults may impact on children. For example, they may liaise with Social Services on issues such as youth justice, adult protection, children affected by parental problematic alcohol and/or drug use, anti-social behaviour, domestic abuse and offender management. Following a risk assessment, there is a range of circumstances in which the police may consider that the need to protect children and vulnerable adults will not be met by disclosing such information to the local authority or other agencies alone. Any decision to disclose to further third parties is made carefully on a case-by-case basis, in consultation with any other relevant agencies and taking into account a wide range of factors.

### **8.6.2 Multi-agency Public Protection Arrangements**

Multi-agency Public Protection Arrangements (MAPPA) are a set of arrangements established by statute.<sup>84</sup> They require authorities and others to establish jointly arrangements for assessing and managing risks posed by high-risk offenders, and apply to registered sex offenders and restricted patients. MAPPA is not a statutory body in itself, but a mechanism through which agencies can better discharge their statutory responsibilities and protect the public in a co-ordinated manner. The responsible authorities are local authorities, the police, Scottish Prison Services and Health services, but the duty to co-operate extends to other services including the

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<sup>84</sup> Management of Offenders etc. (Scotland) Act 2005.

third sector (such as those providing housing services). Multi-agency consideration must be given to managing high-risk sex offenders and their levels of contact with children, both within the family and within the community.

### **8.6.3 Sex Offenders in the Community or People Posing a Risk to Schools**

Where concerns or suspicions are raised that a named individual or individuals living in the community, or a parent, may present a risk of significant harm to children, it is vital that information is properly evaluated, risks considered and action (if any) is proportionate and advice sought.

Where the information is concerned with one individual only but no child is named and concerns are that a risk may be present to children in general within the school or the community, there should exist a detailed protocol between the police and local authorities for handling such matters.<sup>85</sup> In general, these protocols will reflect the necessity for sharing of information between relevant agencies on a 'need to know' basis, with a view to arriving at an agreed plan to deal with the circumstances and risk.

In all these situations, the matter should be referred to the Child Protection Co-ordinator. In the first instance, it is likely that the risk will be assessed between the Social Work and the police. However, other local authority departments may require to be involved in planning any action as a result of this assessment (e.g. housing) and a risk assessment meeting may be required involving a representative from the school. Where wider notification requires to be considered, in exceptional cases, a decision will be made by the police and local authority, who will take into account the need to know on balance with other issues such as the potential for breaching of confidentiality and potential public disorder.

## **8.7 Health Services**

Health practitioners who see children and families have a duty of care to consider the wellbeing of their patients and to work with statutory agencies when there are concerns about the risk to the wellbeing of a child. They may be the first to be aware that families are experiencing difficulties in caring for their children, and should always share their concerns with Social Work (Children's Services), the police or Children's Reporter at an early stage if they are of the opinion that a child is at risk of harm or has been abused. Where relevant, specialist paediatricians are involved in the planning of child protection investigations at the Inter-agency Referral Discussion (IRD) (see Section 6.11). Their responsibility is to ensure appropriate decisions about the wider health needs of the child are evaluated and whether or not a medical examination is required.

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<sup>85</sup> Schools should check their local Child Protection Committee website or Lead Officer for Child Protection so that they are aware in advance of local arrangements for any incident causing concern.

### **8.7.1 Health Visitors**

Health Visitors play a pivotal role in promoting the wellbeing of children and can contribute to the prevention and early identification of child abuse through a range of health promotion activities. Health Visitors provide a consistent, knowledgeable and skilled point of contact for families, assessing children's development and planning with parents and carers to ensure their needs are met. As part of a universal service, they are often the first to be aware that families are experiencing difficulties in looking after their children and can play a crucial role in providing support.

### **8.7.2 General Practitioners**

The role of the General Practitioner (GP) and the Practice Team in child protection can be critical in detecting potential concerns, since they will often regularly engage with children and families. Their role includes prevention, early recognition and detection of concerns, assessment and ongoing care and treatment.

### **8.7.3 Child and Adolescent Services**

Child and Adolescent Services have an active role to play in identifying concerns about children and young people. Child and Adolescent Mental Health Services (CAMHS) may become aware of children and young people who have experienced, or are at risk of, abuse and/or neglect, and are well placed to carry out assessments and provide support. In some cases, adults and older young people may disclose abuse experienced some time ago. CAMHS staff can help implement Child Protection Plans, providing therapeutic support to help children recover from the impact of abuse or neglect, build resilience and develop helpful strategies for the future.

## **8.8 Scottish Children's Reporter Administration**

The role of the Children's Reporter is to decide if a child requires Compulsory Measures of Supervision. Children can be referred to the Reporter by anyone. A referral must be made when it is considered that a child is in need of protection, guidance, treatment or control and that a Compulsory Measure of Supervision might be necessary. On receipt of the referral, the Reporter will conduct an investigation, involving an assessment of the evidence supporting the ground for referral, the extent of concerns over the child's wellbeing and behaviour and the level of co-operation with agencies, which all leads to an assessment of the need for compulsory measures of supervision.

In making this assessment, the Reporter will rely on information from other agencies, most commonly Social Work (Children's Services) and Education Services, although Healthcare Staff may also be asked to contribute. If the Reporter decides that there is sufficient evidence to necessitate supervision measures, the child and their parents/carers will be called to a Children's Hearing. The investigation can take place at the same time as a criminal



investigation or criminal court case, but the focus will remain on the needs and wellbeing of the child or young person.

### **8.8.1 Children's Hearings Scotland**

Scotland has a unique child protection system based on the Children's Hearing System (or Children's Panel). Procedures are more informal, and standards of proof are less rigorous than in the criminal courts. Children's Hearing cases generally require only to be proved 'on the balance of probability' as opposed to the higher standard of 'beyond reasonable doubt' applicable to criminal cases. This means that the Children's Hearing can take action to protect a child even when no prosecution is initiated or no conviction obtained. The law sets out certain conditions, known as 'grounds for referral', one of which has to be satisfied before a Children's Hearing can consider a case. These include situations in which a child is thought to have been abused or neglected or is at risk of significant harm.

A Children's Hearing is a lay tribunal made up of a panel of three specially trained volunteers from the local community. The Hearing decides on a course of action that it believes is in the child's best interests, with input from professionals, and includes a report from a social worker and, where appropriate, from the child's school. Medical, psychological and psychiatric reports may also be requested. The Hearing discusses the child's circumstances fully with the parents/carers, the child or young person themselves and other relevant representatives and professionals (most commonly the social worker) before reaching a decision.

Even where the Reporter has concluded that evidence is sufficient, there may not be a requirement for compulsory intervention, for example because the incident is entirely out of character, there are no other significant concerns about the child and the parental response has been both appropriate and proportionate to the incident. In other circumstances, compulsion may not be needed because the child and family have accepted that there is a problem and are already working with agencies such as restorative justice or Social Work (Children's Services).

The Children's Hearing (Scotland) Act 2011 gives children and their parents (or, strictly speaking, their 'relevant persons', which is limited to persons who have parental responsibilities or parental rights, under the said Act) both a right and a duty to attend the Children's Hearing. The Act creates an appealable process whereby those not within specific definition can acquire 'relevant person status' by proving to the pre-hearing panel 'significant involvement in the upbringing of the child'. 'Relevant persons' who fail to turn up can be fined. Children who fail to attend or are unlikely to turn up can be made the subject of a warrant to ensure that they are kept in a place of safety and brought before the hearing.

In some circumstances, the Children's Hearings can release the child or 'relevant person' from the obligation of attending. Even if they are exempted from the obligation of attendance, both child and 'relevant person' have a right to attend the Hearing. In the child's case, this right is absolute. In the 'relevant person's' case, the Hearing is entitled to exclude that person from any part of the Hearing if their presence is causing distress to the child, or if the Hearing feel

this is necessary to allow the child to express his or her views to them. In this case, the Hearing must subsequently explain to the 'relevant person' what has taken place in their absence. In addition to their responsibilities to attend, 'relevant persons' have rights to receive sensitive information about a child who is brought before a Children's Hearing and have full rights to participate in decision-making and to challenge decisions.

Supervision Orders are the most common form of compulsory supervision made by Children's Hearings. Supervision orders vary, although the most common involve supervision at home by a social worker. In other cases, a child could be required to live away from home, for example with foster carers, in a local authority home or in a residential school. It is the statutory responsibility of local authorities to implement supervision orders. Where there is no requirement for compulsory measures of supervision, children and young people can be dealt with in a number of ways, including voluntary measures.

The Reporter also has a role as a legal agent in the Sheriff Court. First, if the child or relevant person denies the grounds for referral at the Hearing, or if the child is too young to understand the grounds, the matter will require to go to court for the grounds to be established before the Sheriff. It is the Reporter's responsibility to lead the evidence in court and seek to have the grounds established. Second, if the Hearing's decision is appealed, the Reporter will go to court to conduct the appeal on the Hearing's behalf.

## **8.9 Procurator Fiscal Services**

The Crown Office and Procurator Fiscal Service (COPFS) is Scotland's sole prosecuting service, independent of the police and the courts. They are legally qualified civil servants who receive reports about crimes from the police and others and then decide what action to take in the public interest including whether or not, to prosecute. COPFS are also responsible for the investigation of sudden or suspicious deaths and complaints against the police. In child protection matters, the police carry out a criminal investigation and submit a report to the local Procurator Fiscal.

The Procurator Fiscal considers this report and decides whether criminal proceedings should take place. In considering the public interest, the Procurators Fiscal will take a number of factors into account, including the interests of the victim, the accused and the wider community. This can involve competing interests and will vary with every case. As a result, assessment of the public interest involves careful consideration of all factors. Following careful consideration the Procurator Fiscal may decide to commence proceedings, offer an alternative to prosecution or take no action. In cases that a jury will consider, the Procurator Fiscal will gather and review all evidence before Crown Counsel makes the final decision on whether to prosecute. If there is enough evidence, the Procurator Fiscal will then decide what action is appropriate: whether to prosecute, offer an alternative to prosecution or to take no action in the case. In cases that will be considered by a jury, the Procurator Fiscal will interview witnesses and gather and review forensic and other evidence before Crown Counsel makes the final decision on whether to prosecute.

### **8.10 Scotland's Commissioner for Children and Young People (SCCYP)**

The SCCYP<sup>86</sup> was set up in 2004 to promote and safeguard the rights of children and young people living in Scotland. A key role for the Commissioner is to ensure that adults keep the promises made in the UN Convention on the Rights of the Child. The Commissioner has powers to require persons or organisations to attend a public investigation if there are serious concerns about the safety of children.

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<sup>86</sup> [www.sccyp.org.uk/](http://www.sccyp.org.uk/)

## **APPENDIX 1 Definitions of Child, Parent and Carer**

### **Definition of a Child and Young Person**

'A child' can be defined differently in different legal contexts. In particular, the law is not consistent in its classification of young people aged 16 to 18. Sometimes they are seen as adults and at other times as children.

- Under Parts 4 and 5 of the Children and Young People (Scotland) Act 2014 a child is defined as someone who has not attained the age of 18. A young person is a person who has reached their 18<sup>th</sup> birthday and are still on a school roll.
- The welfare duty set out in the Children (Scotland) Act 1995 in relation to children in residential schools applies up to the age of 18. Schools should work on the basis that they have responsibilities for the welfare of young people from 16 to 18. Pupils aged 18 or over are legally adults.
- 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 of the Act (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.
- 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) (failure to attend school), references in the Act to a child include references to a person who is of school age. 'School age' has the meaning given in section 31 of the Education (Scotland) Act 1980 as older than 5 and younger than 16. 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 Children's Hearings (Scotland) Act 2011, on or after their 16<sup>th</sup> 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).

The Adult Support and Protection (Scotland) Act 2007 states a child can be someone over 16 when certain criteria are met. Following the implementation 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.

Although the differing legal definitions of the age of a child can be confusing, 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 e.g. a pupil who is over 16 may fit into the category of vulnerable adult and therefore be referred into adult protection procedures services. Therefore education staff have a responsibility for the wellbeing and protection of all young people under 18, and particularly those that are 'looked after', who are subject to supervision arrangements, or who have additional support needs. The protective interventions that can be taken will depend on the circumstances and legislation relevant to that child or young person.

## **Definition of a Parent and Carer**

### ***Parent***

'A parent' is defined as someone who is the genetic or adoptive mother or father of a 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<sup>87</sup>. 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.

The Children (Scotland) Act 1995 clarifies who has parental responsibilities and rights for their children. In the event of divorce, both parents will continue to exercise responsibilities and rights for the benefit of their children; both parents would normally have equal rights, unless there was a court order removing such rights, to information on their children's education.

Under the Children and Young People (Scotland) Act 2014 'parent' has the same meaning as in the Education (Scotland) Act 1980 (the 1980 Act). Section 135(1) of the 1980 Act states that

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<sup>87</sup> The Family Law (Scotland) Act 2006

'parent' includes a guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1(3) of the Children (Scotland) Act 1995) in relation to, or has the care of a child or young person e.g. kinship carers; foster parents.

Although the legal term used throughout the Children and Young People (Scotland) Act 2014 is 'parent' in the singular, where both parents, or more than one individual, have parental rights and responsibilities, liability to maintain the child or have the care of a child, the expectation would be that both are consulted and involved in decisions and activities aimed at supporting the child. There will be exceptions to this, however, related to the interests of the child's wellbeing, or their rights in relation to confidentiality.

Parental rights are necessary to allow a parent to fulfil their responsibilities, which include looking after their child's health, development and wellbeing, 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 a child is brought up.

### ***Carer***

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 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 of the Regulations and, taking into account that information, carry out an assessment of that person's suitability to care for the child. Local authorities have to provide necessary support to kinship carers to offer protection and care for the child or young person. 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.

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 a person(s) 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.

### **Other Adults who have Charge or Care of Children**

Any person who is over 16 years of age, and who has parental responsibilities, charge or care of a child under 16, has certain responsibilities with regard to that child's welfare, and can be held criminally liable for failure to meet them. Section 27 of the Children and Young Persons (Scotland) Act 1937 identifies those persons who would be regarded as having 'charge or care.' Those presumed to have 'charge' of a child include 'a person to whose charge a child or young person is committed by any person who has parental responsibilities in relation to him.' Those presumed to have 'care' include 'any other person having actual possession or control of a child or young person.'

The Head of School and staff of day and boarding schools would fall within the definition of those having 'charge' or 'care' of a child. The governors might also be regarded as having 'charge' to the extent that they are responsible for ensuring that the school environment is adequate to protect children from foreseeable suffering or harm. There is also a common law duty of care on any person who has day-to-day care or control of children, to protect and safeguard their wellbeing. With increasing awareness of the vulnerability of children to abuse by other children and by staff, it is incumbent upon those in charge of children to ensure that procedures are in place which protect children, facilitate early identification of abuse where it has occurred and ensure that action is taken. This applies particularly to those services where children are in residential care.

Criminal liability arises under Section 12 of the Children and Young Persons (Scotland) Act 1937 if the adult 'wilfully assaults, ill-treats, neglects, abandons, or exposes him in a manner likely to cause him unnecessary suffering or injury to health'. This includes mental as well as physical health. It applies whether or not any harm actually occurred. It is sufficient that it was 'likely' to occur. If this 'likelihood was obviated by the action of another person', an offence might still have been committed. The offence applies not only to those who actually neglect or assault children, but also to those who 'caused or procured' the offence.

### **'In Loco Parentis' and Delegation**

Although the phrase 'in loco parentis' is frequently heard, and has been referred to judicially in relation to chastisement of children, it is not a concept that has any great history in Scottish law. Those who take over the charge of a child certainly undertake responsibilities and this may give them some limited and temporary powers, which can be enlarged by specific delegation by the parent. However, the fact that they may be in the position of a parent, does not give them all the rights of a parent.

The Children (Scotland) Act 1995 states that children should be consulted and that parents should so far as practicable, consider their children's views before taking any major decisions which would affect them. Children over 12 are presumed in law to be old enough to express views, depending on their level of understanding, other known facts and circumstances.

Section 5 of the Act states that, where a person has care or control of a child but does not have parental responsibilities, that person can do what is necessary to safeguard the child's health, development and welfare. The Act specifically says that this provision does not apply to a person who has care or control of a child in a school. This means that, whilst schools have responsibilities towards children, they cannot rely on the general authority given by Section 5 to fulfil their responsibilities. They need to have authority delegated by the parent.

The position of schools is strengthened by section 3(5) of the Act which puts the 'delegation' of parental responsibilities onto a proper legal footing. The Act provides that a person who has parental responsibilities or rights in relation to a child shall not abdicate those responsibilities, but may arrange for some or all of those responsibilities to be carried out by someone else on his/her behalf. This means that, if a parent has delegated responsibility to a 'guardian', the school can feel confident in accepting the 'guardian's' authority for action consistent with the welfare of the child which is within the scope of that delegation. In most instances parents, unless they or a member of their family are involved in allegations of abuse, should be informed of concerns about their children, involved in discussions and advised of action taken.

In the context of consent to medical examination and treatment, the delegation of responsibilities means that staff of boarding schools do not have any automatic right to consent to the medical examination or treatment of a child, unless in an extreme emergency. Where a child cannot give his or her own consent, the school needs delegation of rights by the parent or other person with formal parental responsibility, or the authority of a person whom the parents have authorised to make that decision (see Appendix 7 – Consent to Medical Examination and Treatment).



## **APPENDIX 2 Sample Policy on Confidentiality for Schools and Confidentiality Statement for Pupils**

The policy of the school is to work in partnership with parents and carers in order to promote the wellbeing of children and young people. The school also aims to build up relationships of trust with pupils. Pupils, parents and carers should feel able to raise with the school concerns about the wellbeing and safety of their own child or any other child in the knowledge that these matters will be dealt with sensitively.

Children and young people have a right to privacy under the European Convention on Human Rights (ECHR) & United Nations Convention on the Rights of the Child (UNCRC); children have the same rights to confidentiality as adults. This includes supporting them to have as much control over their situation as possible, in the context of their stage of development and level of understanding. The school will operate on the presumption that anything imparted in confidence will be treated in confidence. This is subject to four qualifications:

- i. Anything imparted 'in confidence' to one member of staff or person approached as an associate of the school, may be shared with a restricted number of colleagues if that person feels in need of support and guidance from them.
- ii. If concerns are raised about the safety or protection of a child, in line with the school's Child Protection Procedures, staff are required to pass that information on to the Child Protection Co-ordinator.
- iii. Where there are concerns that a pupil may be at risk of significant harm, advice will always be taken from the statutory authorities. Sharing information that is relevant and proportionate about children who are at risk of harm is fundamental to keeping children safe.
- iv. The school must pass on information when legally obliged to do so, for example, by a court of law.

Pupils must feel able to share concerns with staff. There may be a conflict of interests when a pupil consults a member of staff about a problem and does not want that information to be shared with their parents or carers. While staff will always encourage and support pupils to share the information with parents and carers, there may be circumstances in which any pressure to pass the information on could not be in the pupil's best interests and result in the pupil keeping the problem to him or herself or not sharing concerns in the future. Confidentiality is of fundamental importance to many children and young people who experience difficulties in their lives. The debates surrounding children's right to confidentiality are not new. Children may choose to contact Childline services, where they can communicate at their own pace and retain control of what happens in the majority of cases. Furthermore, National Guidance on Child Protection for Scotland 2014: '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.' (Para 100). In addition, they can use the '*For Me*' which is the first app to provide direct counselling to young people through a mobile device and it's free to download from Childline.

There is also evidence from young people's sexual health services that confidentiality is the crucial factor in young people accessing services. In Scotland, the 'National Guidance - Under Age Sexual Activity: meeting the needs of children and young people and identifying child protection concerns' (Scottish Government, 2010) provides guidance for setting up protocols for practitioners around assessing needs and risk when working with young people under 16 who may be at risk of harm through early sexual activity. The guidance while advising practitioners to ask young people to share information with their parents or carers establishes an overriding principle that the confidentiality rights of children and young people should be upheld, unless there is a child protection concern.

Parents should be reassured that, whenever possible, it is the aim of the school to act in the best interests of the child and to encourage the fullest possible involvement and consultation with parents. The following is a sample statement on confidentiality which the school issues to pupils.

## **APPENDIX 2 (CONTD)**

### **SAMPLE POLICY ON CONFIDENTIALITY FOR SCHOOLS** **Confidentiality Statement for Pupils**

Staff in school want you to feel that you are happy and getting the best of the opportunities that the school provides during the time you are with us. We hope that you feel able seek help if you are concerned or worried about anything. We are here to help and support you. We hope this information will help you understand the responses you can expect from staff and the various options you have for getting the help you need when you need it.

At the heart of the Children and Young People (Scotland) Act 2014 is the wellbeing of all children and young people in Scotland. This is known as Getting it right for every child (GIRFEC) and covers children and young people up to the age of 18. Wellbeing, under this Act, is defined in relation to eight indicators representing the key areas that are essential to enable children and young people to flourish. These are that children and young people should be:

- Safe;
- Healthy;
- Achieving;
- Nurtured;
- Active;
- Respected;
- Responsible and
- Included.

For the majority of children and young people, these needs will be met by their parents or carers or the routine support provided by the school. For pupils who need extra support every school has someone whose job it is to organise additional help for pupils. Where this happens, your consent and your views will be taken into account. That person should also tell you if they need to share the information, who they are sharing it with, and why.

If you find yourself in a situation where:

- you have something important to talk to staff about
- you are worried about things that are happening to you
- you need help or you need to know how to seek help

The staff are there to listen and to help - they will try to do what they can.

The school's response is that anything you say in confidence will be treated in confidence unless there are concerns about your safety or protection. This would need to be shared with others, but staff would tell you first. They should also tell you who they are sharing it with and why.

You may have concerns that you do not want to share with staff or your parents or carers. If you are worried about confidentiality:

- You can tell staff using a hypothetical concern and seek advice e.g. What if you were 15 and such and such was happening to you what should you do? or I know someone who .....
- If you are still unsure about talking to a member of staff, you can phone Childline on 0800 1111; the call is free and will not show up on your phone bill. Childline will help you work out what to do next.
- You can also use the Childline *'For Me'* which is the first app to provide direct counselling to young people through a mobile device and it's free to download.
- Childline also provides 1-2-1 chat with a counsellor. You can send an email or write a letter to *Ask Sam about the issues* that affect them. 'Sam' responds to a cross section of the letters that young people have sent and young people can search the archive of letters for advice and information.

### APPENDIX 3 Summary of Child Protection Cases – Overview Grid

(For completion by the Child Protection Co-ordinator)

The purpose of this form is to provide an overview of Child Protection cases over time and can be a helpful document for Governors and Inspectors seeking to gain an overview of Child Protection cases in a school over a period of time. It also provides a helpful overview for the Child Protection Co-ordinator of the status of ongoing cases.

Name of child/Initials Year group & class Date of Birth*	Date when concern referred to Child Protection Co-ordinator	Date concern passed to social work or police. If not, reason why not.	Was there an Inter-Agency Referral Discussion (IRD) Yes/No	Was there a Child Protection Case Conference (CPCC )? Yes/No. If Yes give date.	Was the child placed on Child Protection Register? Yes/No	Date child removed from Child Protection Register

***\* This column must be deleted before the form is viewed by anyone other than the designated Child Protection Co-ordinator and Head of School or any other authorised member of staff in order to protect confidentiality.***

#### APPENDIX 4 Host Family Stay Information Form

Name of Host Family:		Name of Guest:	
Address:		Address:	
Telephone Number:		Telephone Number:	
Mobile:		Mobile:	

	<b>Others in the Household</b>
Male Adult/s over 16	
Female Adult/s over 16	
Children (state ages)	
Are there any regular visitors likely to have significant contact with your guest? Please give names, gender, relationship to household and ages if over 16	Yes/No
Are there any pets? (Please give details)	Yes/No

<b>I confirm that:</b>	
Our guest will have their own bedroom or	Yes/No
Will share with their exchange partner who is of same sex and similar age	Yes/No
Our guest will have access to private toilet and bathroom facilities	Yes/No
If our guest is vegetarian, vegan, has a nut allergy or dietary needs this can be accommodated	Yes/No
When a private family vehicle is used to transport a young person, this will only take place when the vehicle is:	
Roadworthy	Yes/No
Appropriately insured	Yes/No
Driven by a specified driver	Yes/No
Names of specified drivers:	

**I confirm the statements made above are correct and I accept responsibility/duty of care for caring for this student in a safe and secure environment. I agree to any necessary checks.**

Signed:

Date:

**For completion by a Senior Member of staff of Host school:**

How long has the family been known to the school?.....

Are there Government Guidelines on the vetting of host families in your country?	Yes/No
Are there legal requirements for the vetting of host families in your country?	Yes/No
Is a criminal record check carried out?	Yes/No
Are references taken up?	Yes/No
If any of the above apply, have these been completed?	Yes/No
Are these satisfactory?	Yes/No
<b>Additional Checks on Scottish Families</b>	
Has a PVG checks been carried out on the host parents?	Yes/No
Have criminal records checks been carried out on anyone over the age of 16 living in the family home?	Yes/No
Have these been completed?	Yes/No
Are these satisfactory?	Yes/No

I confirm that, as far as the school is aware .....(Name of Family) is suitable to host a child.

Name:	Role/Designation:
Date:	

## **APPENDIX 5 Signs of Possible Child Abuse**

It is important to remember that lists such as the one below are neither definitive nor exhaustive. The information has to be used in the context of the child's whole situation and in combination with a range of other information related to the child and his/her circumstances.

These are general indicators that the child may be troubled though not necessarily about abuse. The child may have some of these problems or none at all. It is the combination, frequency and duration of signs that will alert you to a problem. Try to notice all changes in usual behaviour.

There can be an overlap between all the different forms of child abuse and all, or several, can coexist.

### **1. PHYSICAL ABUSE**

Signs of possible physical abuse:

- Unexplained injuries or burns, particularly if they are recurrent
- Bruising on non-independently mobile infants
- Improbable excuses given to explain injuries
- Refusal to discuss injuries
- Untreated injuries, or delay in reporting them
- Excessive physical punishment
- Arms and legs kept covered in hot weather
- Fear of returning home
- Aggression towards others
- Running away

When considering the possibility of non-accidental injury it is important to remember that the injuries may have occurred for other reasons, e.g. genuine accidents or medical disorders.

### **2. PHYSICAL NEGLECT**

Signs of possible physical neglect:

- Constant hunger
- Poor personal hygiene
- Constant tiredness
- Poor state of clothing
- Frequent lateness and/or unexplained non-attendance at school
- Untreated medical problems
- Low self-esteem
- Poor peer relationship
- Stealing



### 3. **NON-ORGANIC FAILURE TO THRIVE**

Signs of possible non-organic failure to thrive:

- Significant lack of growth
- Weight loss
- Hair loss
- Poor skin or muscle tone
- Circulatory disorders

### 4. **EMOTIONAL ABUSE**

Signs of possible emotional abuse:

- Low self-esteem
- Continual self-deprecation
- Sudden speech disorder
- Significant decline in concentration
- Socio-emotional immaturity
- 'Neurotic' behaviour (e.g. rocking, head banging)
- Self-mutilation
- Compulsive stealing
- Extremes of passivity or aggression
- Running away
- Indiscriminate friendliness

### 5. **SEXUAL ABUSE**

Not all children are able to tell parents or carers that they have been assaulted. Changes in behaviour may be a signal that something has happened. It is important to remember that in sexual assault there may well be no physical or behavioural signs.

Signs of possible sexual abuse:

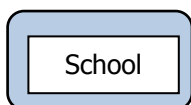
#### **(i) Behavioural**

- Lack of trust in adults or over familiarity with adults
- Fear of a particular individual
- Social isolation - withdrawal or introversion
- Sleep disturbance (nightmares, irrational fears, bed wetting, fear of sleeping alone, needing a nightlight)
- Running away from home
- Girls taking over the mothering role
- Reluctance or refusal to participate in physical activity or to change clothes for activities
- Low self-esteem
- Drug, alcohol or solvent abuse
- Display of sexual knowledge beyond child's years
- Unusual interest in the genitals of adults or children or animals
- Expressing affection in an age inappropriate way, e.g. 'French kissing'

- Fear of bathrooms, showers, closed doors
- Abnormal, sexualised drawing
- Fear of medical examinations
- Developmental regression
- Poor peer relations
- Inappropriate or sexually harmful behaviours
- Compulsive masturbation
- Stealing
- Psychosomatic factors, e.g. recurrent abdominal pain or headache
- Having unexplained/abundance of sums of money and/or possessions
- Sexual promiscuity

**(ii) *Physical/Medical***

- Sleeplessness, nightmares, fear of the dark
- Bruises, scratches, bite marks to the thighs or genital areas
- Itch, soreness, discharge, unexplained bleeding from the rectum, vagina or penis
- Pain on passing urine or recurrent urinary infection
- Stained underwear
- Unusual genital odour
- Anxiety/depression
- Eating disorder, e.g. anorexia nervosa or bulimia
- Discomfort/difficulty in walking or sitting
- Pregnancy - particularly when reluctant to name father
- Venereal disease, sexually transmitted diseases
- Soiling or wetting in children who have been trained
- Self-mutilation/suicide attempts



## APPENDIX 6 Child Protection Concern Form

### PART 1: To be completed by the person who is reporting the concern.

- If a member of staff knows or suspects that a child/young person has been, is being or is at risk of abuse, the concern must be passed onto the Child Protection Co-ordinator as soon as possible on the same working day and this form must be completed and signed and dated on the day.
- Do not delay in completing the form if you do not have all the information.
- It should be kept in a secure place, separate from the Pupil's Educational records, and in accordance with GDPR requirements.

#### 1. Child/Young Person's Details

Name  Is the child known by any other name? If so record	Date of Birth	Year Group / Class
Home Address	Names of any siblings and age (if known)	School or Nursery attending

#### 2. Details of the concern including any of the SHANARRI Indicators (Safe, Healthy, Achieving, Nurtured, Active, Responsible, Respected and Included apply?

**3. Did the child/young person express a view? If so, record in the child's own words.**

**4. Person recording the concern**

Name:	Role/Designation:
Date:	
Time:	

## PART 2: Child Protection Concern Form

To be completed by the Child Protection Co-ordinator

Name of Child Protection Co-ordinator: \_\_\_\_\_

Date Part 1 Received: \_\_\_\_\_ Time: \_\_\_\_\_

You should now open a child protection file and chronology.

### 1. Have there been previous child protection concerns?

Yes ☐ No ☐

If yes, give details:

### 2. Is the child currently on the Child Protection Register?

Yes ☐ No ☐

If yes, the concern should be referred on the day to the allocated social worker or their senior.

Name of social worker:

Date contacted:

Time:

### 3. Did you as Child Protection Co-ordinator speak to the child/young person e.g. to establish basic facts?

Yes ☐ No ☐

### 4. Was this concern shared with anyone else?

Yes ☐ No ☐

If yes, please specify:

**The decision about who shares what with the parents is taken following advice from one of the statutory agencies involved in the Inter-agency Referral Discussion.**

**5. Does the concern involve any of the following types of abuse/risk factors?**

- |  |                             |                              |
|--|-----------------------------|------------------------------|
| 1. Sexual abuse  | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 2. Physical abuse  | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 3. Emotional abuse   | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 4. Physical neglect  | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 5. Young carer   | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 6. Domestic abuse  | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 7. Parental alcohol and/or drug misuse                                     | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 8. Disability  | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 9. Non-engaging family   | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 10. Child affected by parental mental health problems                      | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 11. Child with mental health problems                                      | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 12. Child displaying problematic sexual behaviours                         | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 13. Female genital mutilation  | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 14. Honour-based violence or forced marriage                               | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 15. Fabricated or induced illness  | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 16. Sudden, unexpected death of a child                                    | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 17. Child exploitation   | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 18. Child placing themselves at risk                                       | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 19. Being radicalised or vulnerable to the messages of terrorism/extremism | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 20. Non-recent Abuse (previously known as 'Historical Abuse')              | No <input type="checkbox"/> | Yes <input type="checkbox"/> |
| 21. Other (please specify)   | No <input type="checkbox"/> | Yes <input type="checkbox"/> |

**6. What action was taken in relation to this concern(s)?**

- ☐ Sought further in-house information
- ☐ Continue to monitor – did not meet the threshold for child protection
- ☐ Initiated Child Protection procedures

Name of Person referred to \_\_\_\_\_

Agency \_\_\_\_\_ + \_\_\_\_\_

Designation \_\_\_\_\_

Telephone No \_\_\_\_\_

Date \_\_\_\_\_

Time \_\_\_\_\_

**7. If child protection procedures were initiated, record details of the discussion with social work/police or other statutory agency as per your local Inter-agency Guidelines**

Details of discussion

Outcome of discussion:

**8. If the referral goes to an IRD and is being investigated and assessed by the statutory agencies, the Child Protection Co-ordinator should record details of his/her further involvement in the case and further communication from the statutory agencies involved.**

**9. Was the child placed on the Child Protection Register**

Yes ☐ No ☐

If yes, when: \_\_\_\_\_

**10. When was the child removed from the Child Protection Register? Date:**

**11. Following deregistration was the child/young person made the subject of a Child's Plan?**

Yes ☐ No ☐

**Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_

**Role/ Designation:** \_\_\_\_\_

## APPENDIX 7 Consent to Medical Examination and Treatment

The law on consent to medical examination and treatment was changed in 1991 with the introduction of the Age of Legal Capacity (Scotland) Act. Section 2 (4) states that any child under 16 has a right to consent or to refuse consent (refusal given under The Children (Scotland) Act 1995) to his or her own examination or treatment. A child under 16 can also give valid consent:

'Where, in the opinion of a qualified medical practitioner attending him, he is capable of understanding the nature and possible consequences of the procedure or treatment.'

The decision about competence is entirely one for the doctor or other medical practitioner to make. If the child is assessed as being able to give his or her own consent, then it is the child's consent that must be obtained. Parents and their delegates no longer have any right to make decisions on behalf of a competent child. Where a child cannot give consent, the consent of a person holding parental responsibility would normally be required.

### Who has Parental Responsibilities?

If a child's parents are, or have been, married to each other, both of them have parental responsibility and either parent can give consent. If the parents have not been married to each other, only the mother has automatic parental responsibilities including the right to consent.

The Children (Scotland) Act 1995 also allows unmarried parents to enter into a 'parental responsibility agreement' which, when registered, gives the father full parental responsibility. The Family Law (Scotland) Act 2006 amended section 3 of The Children (Scotland) Act 1995 by extending parental rights and responsibilities to those unmarried fathers who, after the 4th May 2006, register the birth of their child jointly with the mother. In addition, the Act allows consent to be given by those who have care or control of a child but do not have formal parental responsibility. This consent is effective only if the proposed treatment or procedure is 'reasonable in all the circumstances to safeguard the child's health, development and welfare'. It would not be effective if either:

- the child was competent to consent; or
- the person knew that the parent would refuse consent.

Those with day-to-day care and control may be legally competent (if anyone with parental responsibilities could not be found) to give consent – this consent is only to **safeguard** the child's health. The parental responsibility is to **'safeguard and promote'** the child's health.



Other individuals may have obtained parental responsibility by court order. If the child is 'accommodated and looked after' by the local authority, the authority can give consent only if it has obtained a 'parental responsibilities order' from the court, or consent is authorised by conditions attached to various orders and warrants from the court or the Children's Hearing. Even in these circumstances, no examination or treatment can take place in the face of a refusal of consent by a competent child.

In an emergency situation, medical staff are advised that they may act without parental consent where it is necessary to save the child's life or avoid serious impairment of health.

Schools should not assume that they have authority to authorise any medical examination or treatment unless authority has been delegated to them. Where parents have appointed a 'guardian' to make such decisions on their behalf, the guardian's authority should be sought for medical procedures. Boarding schools should consider asking parents to give schools authority in writing to seek medical treatment for their children, as the absence of clear delegation could give rise to difficulties.

Schools would not have authority to authorise medical examination for the purpose of gathering evidence for legal proceedings. Even where schools have a written delegation of authority from the parent to authorise medical examination or treatment, care must be taken following any allegation of abuse to ensure that examinations for medical and forensic reasons are co-ordinated, and evidence safeguarded. The CPC should refer the matter to the police or Social Work (Children's Services) who will ensure that local Inter-agency Child Protection Procedures are followed.

## APPENDIX 8 Under-age Sexual Activity – Risk Assessment Screening Framework

### Recording information

The needs of the young person are the primary consideration when the Child Protection Co-ordinator decides upon the relevant and proportionate sharing of information. The Child Protection Co-ordinator when, recording information or releasing information to other parties and persons, has legal and professional duties to ensure that the information recorded is accurate, relevant and sufficient for its purpose and that any disclosure is lawful – either through the consent of the young person concerned or where there is the potential of harm to themselves or others which outweigh lack of consent. **Where a decision is made not to share information with parents or carers, the Child Protection Co-ordinator should ensure they record the reasons for this.** If they have any doubt they should share their concerns/dilemma with the Head of School.

### Risk Assessment:

The Child Protection Co-ordinator should ask themselves the following questions:

1. What is getting in the way of this young person's wellbeing?
2. Do I have all the information I need to help this young person?
3. What can I do *now* to help this child or young person?
4. What can my service do to help this young person?
5. What additional help, if any, may be needed from others?

In addition:

They should encourage the young person to share information with their parents or carers where it is safe to do so. This is in recognition of the responsibilities, rights and a duty of parents to direct and guide their children in the exercise of their rights, consistent with the young person's evolving capacities. If the Child Protection Co-ordinator has assessed that the sexual behaviour is consensual teenage sexual activity where there are no concerns of abuse or exploitation, he/she should:

1. Ask the young person to share it with their parents or carers.
2. Inform them of the law and under-age sex.
3. Uphold the confidentiality rights of the young person, and
4. Provide practical assistance and advice as required and signpost young people to the appropriate local services (e.g. sexual health services).

### UNDER-AGE SEXUAL ACTIVITY: MEETING THE NEEDS OF CHILDREN AND YOUNG PEOPLE AND IDENTIFYING CHILD PROTECTION CONCERNS - SCREENING FRAMEWORK FOR RISK ASSESSMENT (TO BE USED BY THE CHILD PROTECTION CO-ORDINATOR)

**If it is clear either at the initial presentation or at any stage of information gathering for an older child (over 13 and under 16) that they are at risk of harm/abuse or they have been abused, no further questions should be asked and a Child Protection Referral should be made to ensure best evidence for the young person.** These indicators can help decide on the appropriate response and whether information needs to be shared. What follows is a non-exhaustive list of some of the typical factors that may indicate a child protection concern and help Child Protection Co-ordinators determine risk and need. It is not intended to be used as a checklist but forms the basis of a risk assessment: depending on the specific situation, not all of the areas identified will require exploration.

<b>A Younger Child under 13</b>	<b>YES</b>	<b>ACTION</b>	
Is the child under the age of 13 or did the sexual activity take place when the young person was under 13?		Child Protection Referral	
<b>An Older child (over 13 and under 16)</b>	<b>YES</b>	<b>NO</b>	<b>Don't Know/NA</b>
Did the young person understand the sexual behaviour they were involved in?			
Did the young person agree to the sexual behaviour at the time?			
Did the young person's own behaviour – e.g. 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 young person able to give informed consent? (e.g. mental health issues, learning disability or any other condition that would heighten the young person's vulnerability)			
<b>The Relationship</b>			
Was there a coercing power or any other relevant imbalance present in the relationship? (E.g. 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 young people similar in age or of the same sex.			
Were manipulation, bribery, threats, aggression and/or coercion, involved? (E.g. was the young person isolated from their peer group or was the young person given alcohol or other substances as a dis-inhibitor etc.)			
<b>The Other Person</b>	<b>YES</b>	<b>NO</b>	<b>Don't Know/NA</b>
Did the other person use 'grooming' methods to gain the trust and friendship of the young person? (E.g. by indulging or coercing the young person with gifts, treats, money etc.; by befriending the young person's family; by developing a relationship with the young person via			

theinternet.)			
Did the other person attempt to secure secrecy beyond what would be considered usual in teenage sexual activity?			
Was the other person known by the practitioner 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 young person, male or female, frequenting places used for prostitution?			
Is there evidence of the young person being involved in prostitution or the making of pornography?			
If it is a boy: Was the young man frequenting places where men have sex with men in circumstances where additional dangers, e.g. physical assault, might arise?			
Were there other concerning factors in the young person's life which may increase their vulnerability? (E.g. homelessness.)			
Did the young person deny, minimise or accept the concerns held by the Child Protection Co-ordinator?			

## Summary of Risk Assessment

### Outcome of Risk Assessment:

### Tick relevant box

- |   |                          |
|---|--------------------------|
| 1. Younger child (under 13) – Child Protection Referral made  | <input type="checkbox"/> |
| 2. Older child (over 13 - under 16) – no concerns of abuse or exploitation  | <input type="checkbox"/> |
| 3. Older child (over 13 - under 16) where other concerns have been identified - signposted to sexual health/ counselling/other services | <input type="checkbox"/> |
| 4. Older child (over 13 and under 16) – at risk of harm/ abuse or has been abused - Child Protection Referral made                      | <input type="checkbox"/> |

Signed -----

Designation-----

Date-----

Time-----

## **APPENDIX 9 Arrangements for Child Protection in the Armed Forces**

**In all cases below the initial point of referral should be to follow the local procedures. Local social work staff will make the necessary links to the appropriate service although sometimes it may be necessary for schools to make direct contact.**

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

The Naval Personnel and Family Service and Royal Marines Welfare (NPFS and RMW) are staffed by qualified social workers and trained and supervised welfare workers and provide a professional social work and welfare service to all naval personnel and their families. NPFS and RMW 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 civilian area officer for Scotland and NPFS and RMW should be invited to any case conferences or case discussions concerning those issues.

The Area Officer for East and Overseas has an overview of all naval child protection cases in the UK.

Area Officer RMW Scotland  
1-5 Churchill Square  
Helensburgh  
G84 9HL  
tel: 01436 672798  
fax: 01436 674965  
email: navyNPS-peoplesptrnrmwscot@mod.uk

RNRMW Portal  
Swiftsure Block  
HMS NELSON  
HMNB Portsmouth  
Hants  
PO1 3HH  
tel: 02392 728777  
email: navynps-peoplesptrnrmwportal@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 workers 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, SAWWs 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:

Debbie Moretti  
 The Senior Army Welfare Worker  
 AWS Edinburgh  
 tel: 0131 310 2845  
 email: [deborah.moretti191@mod.gov.uk](mailto:deborah.moretti191@mod.gov.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 from the Soldiers, Sailors and Airmen's Association, Forces Help (SSAFA-FH) P&FSW 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.

Jayne Whitcher  
Social Work Team Leader  
SSAFA  
RAF Lossiemouth  
Tel: 01343 817759  
Email: [jayne.whitcher@ssafa.org.uk](mailto:jayne.whitcher@ssafa.org.uk)

## **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 in the Ministry of Defence (MoD).

The MoD funds the British Forces Social Work Service (BFSWS) overseas which is contracted to the SSAFA-FH 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.