

## Section 6 – Supplementary Guidance

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## **Introduction**

This section refers to the safety of children and young people in specific situations and should be read in conjunction with the other relevant sections of these procedures and, where relevant, other Durham procedures. Matters of information sharing, confidentiality and data protection are covered in the Government guidance *‘What to do if you’re worried a child is being abused’* (2006) and in the County Durham Protocol for Working Together in the Delivery of Services to Children (2010)

## **SAFEGUARDING CHILDREN & YOUNG PEOPLE FROM SEXUAL EXPLOITATION**

- 6.1 The sexual exploitation of children and young people has been identified throughout the UK, in both rural and urban areas, and in all parts of the world. It affects boys and young men as well as girls and young women. It robs children of their childhood and can have a serious long-term impact on every aspect of their lives, health and education. It damages the lives of families and carers and can lead to family break-ups. Sexual exploitation of children and young people is completely unacceptable.
- 6.2 Action to safeguard and promote the welfare of children and young people who are sexually exploited should be child-centred and focus on the child's needs. Those working with children and young people should engage with them and their families throughout the process. The particular needs and sensitivities of girls and boys, children with a physical disability or learning disabilities, those from ethnic communities, or those for whom English is not their preferred language, should be reflected in the provision of services. The wishes and feelings of children and young people as well as the concerns of parents or carers should be sought and taken into account in reaching any decisions about the provision of services which affect them. Professionals should be aware that children and young people do not always acknowledge what may be an exploitative and abusive situation.
- 6.3 The sexual exploitation of children and young people is a form of child sexual abuse. Refer to [Section 9](#) – Possible Indicators of Sexual Abuse.

### The Nature of Sexual Exploitation

- 6.4 Sexual exploitation can take many forms from the seemingly 'consensual' relationship where sex is exchanged for attention, affection, accommodation or gifts, to serious organised crime and child trafficking. What marks out exploitation is an imbalance of power within the relationship. The perpetrator always holds some kind of power over the victim, increasing the dependence of the victim as the exploitative relationship develops.
- 6.5 Sexual exploitation involves varying degrees of coercion, intimidation or enticement, including unwanted pressure from their peers to have sex, sexual bullying (including cyber bullying), and grooming for sexual activity. Technology can also play a part in sexual abuse, for example, through its use to record abuse and share it with other like-minded individuals or as a medium to access children and young people in order to groom them. A common factor in all cases is the lack of free economic or moral choice.

## Grooming

6.6 Many children and young people are groomed into sexually exploitative relationships but other forms of entry exist. Some young people are engaged in informal economies that incorporate the exchange of sex for rewards such as drugs, alcohol, money or gifts. Others exchange sex for accommodation or money as a result of homelessness and experiences of poverty. Some young people have been bullied and threatened into sexual activities by peers or gangs which is then used against them as a form of extortion and to keep them compliant.

## Who is involved?

6.7 Although the predominant evidence is of men sexually abusing children and young people, both men and women have been known to sexually exploit young men and young women. There is a presumption that children and young people are sexually exploited by people they do not know. However, evidence shows that they are often abused by 'boyfriends' or people with whom they feel they have a relationship. Professionals should also be alert to organised familial abuse or abuse within closed community groups, including sexual exploitation and the making and distribution of abusive images of children and trafficking of children into, within and out of the UK.

## Where children might be targeted

6.8 Any child or young person may be at risk of sexual exploitation, regardless of their family background, however some groups are particularly vulnerable. These include children and young people who have a history of running away or of going missing from home, those with special needs, those in and leaving residential and foster care, migrant children, unaccompanied asylum seeking children, children who have disengaged from education and children who are abusing drugs and alcohol or those involved in gangs.

6.9 The perpetrators of sexual exploitation are often well organised and use sophisticated tactics. They are known to target areas where children and young people might gather without much adult supervision, such as shopping centres, cafes, takeaways, pubs, sports centres, cinemas, bus or train stations, local parks, playgrounds and taxi ranks, or sites on the Internet used by children and young people. The process of grooming may also be visible in adult venues such as pubs and clubs. In some cases perpetrators are known to use younger men, women, boys or girls to build initial relationships and introduce them to others in the perpetrator networks.

- 6.10 However, young people can also be sexually exploited by informal and unorganised groups of people. Children and young people, who are themselves the victims of exploitation, may introduce other young people to their abusers. This may not be a deliberate attempt to groom others into sexual exploitation, but rather a way of ensuring that their abuser's attention is deflected away from themselves.
- 6.11 Children and young people may be groomed into “party” lifestyles where they go to houses/flats with numerous men and other women. These parties often introduce children and young people to alcohol and drugs. No single relationship may be formed but a general network is created and grooming occurs through these social relationships

#### Children are hidden victims

- 6.12 These children and young people are themselves victims and should not be prosecuted except as a last resort when other interventions have failed and there is an absolute need to protect others.
- 6.13 The majority of sexually exploited children and young people will be hidden from public view. They are unlikely to be loitering or soliciting on the streets of red light areas. Sexual exploitation is also more likely to take place in private premises than the more ‘visible’ saunas or massage parlours. Young people are groomed to be secretive about their meetings, which are usually arranged over mobile phones or the Internet, and the places and people they are meeting, so the activities are concealed from parents or carers.
- 6.14 Because of the grooming methods used by their abusers, it is very common for children and young people who are sexually exploited not to recognise that they are being abused. The needs of children and particularly of young people aged 16 and 17 years are likely to be overlooked for this reason. Although faced with limited choice, they may believe themselves to be acting voluntarily. It may take many weeks or months for practitioners who work with young people to build up their trust, help them to recognise that they are being sexually exploited by challenging their perceptions with factual information, and overcome their resistance to interventions.

### The legal age of consent to sex

- 6.15 The fact that a young person is 16 or 17 years old and has reached the legal age of being able to consent to sex should not be taken as a sign that they are no longer at risk of sexual exploitation. These young people are still defined as children under the Children Act 1989 and 2004 respectively. They can still suffer significant harm as a result of sexual exploitation and their right to support and protection from harm should not be ignored or de-prioritised by services because they are over the age of 16, or are no longer in mainstream education or training.
- 6.16 Young people under 18, especially girls, can be located in brothels and massage parlours and they may hold fake identification. Where a young person is found in this situation, steps should be taken to establish the validity of their ID and assess their age, and services should always consider what action would be necessary if they are aged under 18 years.

### Identifying risk

- 6.17 The earlier that sexual exploitation, or likelihood of it, can be identified, the more opportunities there are to prevent or minimise the harm suffered by a child or young person. Children and young people who are at risk of sexual exploitation or who are being sexually exploited may display highly complex and challenging behaviours.
- 6.18 They may appear abusive and anti-social and may become involved in bullying and exploitative activities towards others. These behaviours may mean that professionals can experience difficulty in recognising the young people's vulnerability and in responding to it. However, it is also important to recognise that some young people who are being sexually exploited do not exhibit any external signs of this abuse.
- 6.19 A detailed definition and more risk indicators are contained in the Supplementary Guidance Safeguarding Children & Young people from Sexual Exploitation.

6.20 The indicators below are some examples of vulnerability factors linked to child sexual exploitation:

- family history of abuse or neglect;
- family history of domestic abuse;
- family history of substance misuse;
- family history of mental health difficulties;
- breakdown of family relationships;
- low self-esteem;
- history of local authority care.

6.21 Risk indicators include:

- staying out late;
- multiple callers (unknown adults/older young people);
- use of a mobile phone that causes concern;
- expressions of despair (self-harm, overdose, eating disorder, challenging behaviour, aggression);
- disclosure of sexual or physical assault followed by withdrawal of allegation;
- sexually transmitted infections and/or vagueness about partners or the number of partners.
- peers involved in clipping (receiving payment in exchange for agreement to perform sexual acts but not performing the sexual act) or sexual exploitation;
- drugs misuse;
- alcohol misuse;
- use of the internet that causes concern;
- unsuitable or inappropriate accommodation (including street homelessness and living in a place where needs are not met);
- isolated from peers and social networks;
- lack of positive relationship with a protective, nurturing adult;
- exclusion from school, unexplained absences from school or not engaged in education or training;
- living independently and failing to respond to attempts by workers to keep in touch.

6.22 Significant risk indicators include:

- periods of going missing overnight or longer;
- older 'boyfriend' or relationship with a controlling adult with difficulty in accessing the young person because of that relationship;
- physical or emotional abuse by that 'boyfriend' or controlling adult;
- entering and/or leaving vehicles driven by unknown adults;
- unexplained amounts of money, expensive clothing or other items;

- physical injury without plausible explanation;
- frequenting areas known for sex work.

6.23 It is unlikely that concerns about the possible sexual exploitation of a child/young person are as a result of a one off incident. Concerns often build up as a result of deteriorating behaviour. The information above can be used to identify risk.

6.24 It is important that professionals act on early concerns to support the individual child/young person and their family, concerns may arise during the Common Assessment Framework (CAF) process. Once concerns regarding sexual exploitation have been identified a referral should be made to Initial Response Service.

### Referral

6.25 See [Section 5](#) – Managing Individual Cases.

### Strategy Discussion

6.26 Where the threshold for child protection enquiries is met, a strategy discussion and/or meeting must be held involving Safeguarding & Specialist Services, Police Safeguarding Unit, appropriate health professional and other relevant agencies. Consideration should be given to contacting neighbouring and other (LA areas where children and young people have been sexually exploited and are believed to have lived or temporarily been present or where abusers and coercers have been present).

### Child/Young Person Already Known to the Children & Young People's Service

6.27 The child or young person concerned may currently have Children & Young People's Service involvement, or be looked after, and be subject to an action plan; this plan might already recognise the concerns and be aimed at enabling the child or young person to exit the exploitation.

6.28 Consideration should always to be given to holding a strategy meeting for a looked after child when sexual exploitation is recognised as a concern. If the decision for not holding a strategy meeting is that the current plan already adequately address the concerns this needs to be clearly documented.

### Issues for the Strategy Discussion where sexual exploitation is being considered

- 6.29 The wishes and feelings of a child or young person should be obtained when deciding how to proceed in these circumstances. He or she may be at a particularly important turning point in their life and will need to be “enabled to express their wishes and feelings; make sense of their circumstances and contribute to decisions that affect them”.
- 6.30 However, professionals who are assessing the views of these children must be aware that perpetrators may have ‘groomed’ them and conditioned their responses and that they may be denying what has happened to them. Equally, children may fear for their personal safety or safety of their family and they may initially reject offers of help or support.
- 6.31 It is necessary to involve the child or young person and to ascertain the concerns of parents and carers at all stages to enable children to successfully escape from sexual exploitation and reintegrate into society. Wherever possible, family members should also be involved and supported in work with the child.
- 6.32 The factors leading to a child or young person being sexually exploited may be complex. One of these factors may be the development of a strong relationship with the coercer or abuser, which may make it difficult for the child or young person to break the relationship and move away from the exploitative situation. Agencies should recognise the strength of this attachment and the time and difficulty there may be in breaking it and helping the young person to develop a meaningful relationship with appropriate adults. A strategy should be developed with the child and family which addresses the child’s needs and also helps them to move on from the exploitative situation.

### Intervention and Support

- 6.33 Intervention and support could include continuing outreach work and engagement with professionals, mentoring to assist a return to education or employment, help to secure appropriate health services, pursue leisure activities and to develop a positive network of friends and relatives to offer continuing support.
- 6.34 Follow-up may include specialist therapeutic support, for example through the provision of mental health services.

### Criminal investigation

- 6.35 While taking steps to protect a child from sexual exploitation, professionals should also consider how best to gather and preserve evidence to prosecute the perpetrators of the exploitation. This will increase the chances of a successful prosecution. The decision of whether to prosecute should be made in the context of considering what is in the best interests of the child and of potential future victims.
- 6.36 In the absence of a complaint being made by a child or young person and where it is in the best interests of the child, other methods should be considered in order to proceed with a prosecution.

### Disruption Plans

- 6.37 Disrupting perpetrator behaviours is an important part of local work to tackle child sexual exploitation. There will always be a proactive investigation aiming for successful prosecutions; a disruption plan targeting suspected perpetrators can be extremely beneficial. A disruption plan might involve a number of activities, ranging from simple observation of an individual's activities, to the use of a range of civil orders including sexual offences prevention orders and risk of sexual harm orders depending on the type of behaviour and evidence available. Other types of legislation, such as anti-social behaviour orders, restraining orders or child abduction notices can be used to disrupt incidences of sexual exploitation while other measures to safeguard children and young people or gather evidence are taking place.

### Related Guidance

#### *Safeguarding children who may have been trafficked.*

- 6.38 The guidance can support those working with children to identify and respond to trafficked children. This can include children and young people trafficked for sexual exploitation both into, and within the UK.

Safeguarding children and young people who may be affected by gang activity.

6.39 Children and young people associating with or targeted by gang members are at particular risk of being sexually exploited and abused. In some localities female members of gangs are often on the receiving end of violence and extortion and their relationships with other gang members tend to be abusive and submissive. Within a gang girls may be sexually exploited or may sexually service older male gang members in return for a supply of drugs or for fear of worse retaliation if they refuse. Rape by gang members, as a form of retaliation or as an act of violence in itself, are said to occur quite frequently in some areas but reports to the police are rare due to fear of intimidation or reprisal. Female relatives of gang members can be at particular risk of either being drawn into a submissive sexual role in a gang or of being the victim of sexual violence by another gang. Siblings are particularly at risk of sexual exploitation but other members of the wider family may also be exploited in this way.

## **SAFEGUARDING CHILDREN IN WHOM ILLNESS IS FABRICATED OR INDUCED**

### Introduction

6.40 Professionals are expected to work in line with 'Safeguarding Children in Whom Illness is Fabricated or Induced' (HM Government 2008), which includes:

- extensive guidance for inter-agency practice in handling individual cases;
- expected roles and responsibilities for a wide range of professionals working within Health, Safeguarding & Specialist Services, Police, Education etc.;
- key issues for working with families where fabricated or induced illness may be a feature.

### Fabricated/Induced Illness

6.41 There are three main ways, not mutually exclusive, of a parent/carer fabricating or inducing illness in a child:

1. Fabrication of signs and symptoms, for example, fabrication of past medical history.
2. Falsification of hospital charts, records, letters, documents and specimens of bodily fluids.

### 3. Induction of illness by a variety of means.

*(Terms previously used have included Munchausen Syndrome by Proxy; Factitious Illness by Proxy; Illness Induction Syndrome and Paediatric Condition Falsification Factitious Disorder by Proxy)*

## Behaviours Associated with Fabricated/Induced Illness

### 6.42 Behaviours include:

- deliberately inducing symptoms in children by administering medication or other substances, or by means of intentional suffocation;
- interfering with treatments by overdosing, not administering them or interfering with medical equipment such as infusion lines;
- claiming the child has symptoms which are unverifiable unless observed directly, such as pain, frequency of passing urine, vomiting, or fits;
- exaggerating symptoms, causing professionals to undertake investigations and treatments which may be invasive, are unnecessary and therefore are harmful and possibly dangerous;
- obtaining specialist treatments or equipment for children who do not require them;
- alleging psychological illness in a child.

6.43 Where illness is being fabricated or induced, extensive, unnecessary medical investigations may be carried out in order to establish the underlying causes for the reported signs and symptoms. The child may also have treatments prescribed or operations which are unnecessary. These investigations can result in children spending long periods of time in hospital and some, by their nature, may also place the child at risk of suffering harm or even death.

6.44 Carers exhibit a range of behaviours when they believe that their child is ill. A key professional task is to distinguish between the over anxious carer who may be responding in a reasonable way to a very sick child and those who exhibit abnormal behaviour. Such abnormal behaviour can be present in one or both parents/carers and often involves passive compliance of the child.

## Referral

- 6.45 When a possible explanation for reported or actual signs and symptoms in a child is that they may have been fabricated or induced by a parent/carer, and as a consequence the child's health or development is or is likely to be impaired, a referral should be made to Safeguarding & Specialist Services.
- 6.46 Discussions (between any professional and safeguarding specialist) need to take place as soon as there is reasonable cause to suspect a child is suffering significant harm from fabricated/induced illness. It does not have to be proved before this contact takes place.
- 6.47 The referral may, for example, follow an evaluation of the child's signs and symptoms whilst an inpatient or be due to concerns held by professionals working with the child or concerns held by a member of the public who knows the child.
- 6.48 In situations of possible induced or fabricated illness practitioners should **not** discuss their concerns with the parents/carers. This is because such discussion may increase the risk of significant harm to the child. Decisions about what discussions are to take place with the parents/carers are to be made on an inter-agency basis, following referral to Safeguarding & Specialist Services.

## Response by Safeguarding & Specialist Services & Strategy Meeting

- 6.49 Child protection procedures are to be applied to referrals about **possible** fabricated/induced illness and an inter-agency Strategy Meeting must be held.
- 6.50 As a minimum agency/professional representation at the Strategy Meeting should include:
- Safeguarding & Specialist Services;
  - Police Safeguarding Unit;
  - Medical Consultant responsible for the child's health;
  - Senior Ward Nurse (if the child is an inpatient);
  - GP;
  - Health Visitor, School Nurse;
  - Education staff as appropriate;
  - Named Nurse Safeguarding Children.

6.51 Consideration should be given to inviting:

- a medical professional who has expertise in the branch of medicine which deals with the symptoms and illness processes caused by the suspected abuse;
- a solicitor from the Local Authority.

6.52 Staff attending the Strategy Meeting should be sufficiently senior to be able to contribute to the discussion of often complex information and to make decisions on behalf of their agencies.

6.53 This meeting should take place as soon as practical (within one week) to ensure the correct people attend. All agencies/professionals involved should be asked to begin compiling a chronology for the Strategy Meeting.

6.54 Decisions about what discussions are to take place with the parents/carers, and by whom, are to be made at this Strategy Meeting (and the referrer should be advised).

6.55 There may be a series of Strategy Meetings and chronologies should be maintained and kept up to date for all subsequent Strategy Meetings.

6.56 Depending on the circumstances of the case, consideration should be given to the possibility of the use of Covert Video Surveillance.

### Emergency Action

6.57 Sometimes it may be apparent at the point of referral to Safeguarding & Specialist Services that emergency action is necessary, for example, when a child's life is in danger, possibly through poisoning or toxic substances being introduced into the child's blood stream. Emergency action should normally be preceded by an immediate Strategy Discussion between the Police, Safeguarding & Specialist Services, Health and other agencies as appropriate.

### Responsibilities

6.58 From the point of referral, Safeguarding & Specialist Services, the responsible Paediatric Consultant and Police Safeguarding Unit are to work very closely together.

#### 6.59 Lead responsibilities:

- Safeguarding & Specialist Services for action to safeguard and promote the child's welfare.
- The Paediatric Consultant for the child's health care and decisions pertaining to it.
- The Police Safeguarding Unit for investigating any crime which may have been committed and the management of how investigations are to be conducted.

#### Chronologies

6.60 The [chronology framework](#) should be the one agreed by Durham LSCB.

6.61 In compiling chronologies, the focus must be on:

- ensuring that all practitioners describe precisely what they have observed rather than using unfamiliar terminology;
- clarifying any concerns about medical information (treatments, expected findings, prognosis, etc.) with an appropriate Doctor;
- focusing on the possible harm to the child, not the motivation of the parent/carer.

6.62 Professionals involved should formulate chronologies, for discussion at the Strategy Meetings. Chronologies should not include every single contact, instead they should include all significant events.

6.63 Safeguarding & Specialist Services should then sort and merge the chronologies into one complete document.

6.64 Any episode in which the parent/carer could be using the medical system to harm the child and all possible episodes of other forms of abuse must be included, including trivial injuries, which may be accidents or due to inflicted harm.

#### Risk from a Member of Staff

6.65 There may be times when a member of staff is responsible for the unexplained or inexplicable signs and symptoms in a child. This should be borne in mind when considering how to manage the child's care. Any such concerns about a member of staff should be discussed with the relevant named professional for child protection.

6.66 Any professional concerned about a member of staff should refer to the Allegations Against Staff, Carers & Volunteers in [Appendix 5](#) of these procedures.

### Covert Video Surveillance

6.67 The DOH say that Covert Video Surveillance (CVS) should be used if:

- there is no alternative way of obtaining information which will explain the child's signs and symptoms.
- a multi-agency Strategy Meeting agreed that its use would be justified based on the medical information available.

6.68 In order to obtain authorisation, the Police have to demonstrate that CVS is necessary, in line with the Regulation of Investigatory Powers Act 2000. Where CVS is to be employed, the operation and management of this is to be controlled by the Police and accountability held by a Police manager.

### Further Information and Guidance about Fabricated or Induced Illness

6.69 For further information and guidance see:

'Safeguarding Children in Whom Illness is Fabricated or Induced' (DfE 2008)

## **ORGANISED & COMPLEX ABUSE**

**These procedures should be read in conjunction with Allegations against Staff, Carers & Volunteers (Appendix 5 of these procedures) and for further guidance see Complex Child Abuse Investigations: Inter-Agency Issues, Home Office & Department of Health 2002.**

### Definition

- 6.70 Organised or complex abuse covers circumstances which may involve a number of abusers and/or a number of children. The abusers concerned may be acting in conjunction with others to abuse a child/ren.
- 6.71 One or more of the adults involved may be using an institutional framework or position of authority to recruit children for abuse.
- 6.72 It reflects, to a greater or lesser extent, an element of organisation on the part of the adult(s) involved and may involve:
- aspects of ritual to aid or conceal the abuse of children;
  - child sexual abuse networks where adults plan and develop social contacts with children for the purpose of gaining access to them in order to abuse them;
  - child pornography or abuse of children through prostitution;
  - abuse in residential homes, boarding schools or other institutions;
  - adult(s) who seek contact with children for improper reasons through leisure or welfare organisations.

### General Principles

- 6.73 Cases of organised abuse are often highly complex because of the number of children involved, the very serious nature of the allegations of abuse, the need for therapeutic input and the complex and time consuming nature of any consequent legal proceedings.
- 6.74 Such cases usually require the formation of dedicated teams of professionals from both the Police and Safeguarding & Specialist Services for the purpose of the investigation.
- 6.75 It is recognised that those who commit sex offences against children often operate across geographical and operational boundaries and the procedure takes into account the involvement of more than one Local Authority or Country.

6.76 Where an allegation involves a postholder who has a specified role within these procedures, the referral must be reported to an alternative (more senior) manager.

6.77 In all investigations of organised abuse, it is essential that staff involved maintain a high level of confidentiality in relation to the information in their possession without jeopardising the investigation or the welfare of the children involved.

6.78 Subsequent information generated throughout the investigation should only be shared on a “need to know” basis.

6.79 These procedures must be implemented in conjunction with the procedures on abuse by staff, carers and volunteers where appropriate.

#### Initial Strategy Discussion and/or Meeting

6.80 Where there is a suspicion of a ‘complex case’, the Safeguarding Service Manager and Team Manager, and the Police Safeguarding Unit Detective Inspector must be informed immediately. They should have a Management Strategy Discussion and/or Meeting within the working day the referral is received.

6.81 The Strategy Discussion and/or Meeting must:

- assess the information known to date;
- decide what further information is required at this stage;
- arrange for its gathering;
- establish whether and to what extent complex abuse has been uncovered;
- undertake an initial mapping exercise to determine the scale of the investigation and possible individuals implicated;
- consider a plan for the investigation to be presented to the Strategic Management Group, including resource implications;
- consider any immediate protective action required.

6.82 This Management Strategy Discussion and/or Meeting may include the referrer, if appropriate, a legal adviser and anyone else relevant to the meeting.

6.83 Having considered and discussed the information those persons must, if in their view the suspicion is confirmed, pass the information on to the Head of Safeguarding & Specialist Services.

### Professionals who need to be informed

6.84 The Head of Safeguarding & Specialist Services must inform the LSCB Business Manager, the Corporate Director of Children & Young People's Service, Durham County Council Press Office and Senior Managers of relevant agencies, e.g. designated child protection professionals.

### Strategic Management Group (SMG)

6.85 To ensure a co-ordinated response, a SMG meeting Chaired by either the Head of Safeguarding & Specialist Services or the Police Detective Chief Inspector must be convened within five working days of the receipt of the referral.

6.86 The membership of the group should comprise senior staff able to commit resources and will normally include the following:

- Head of Safeguarding & Specialist Services;
- Police Senior Investigating Officer (usually Safeguarding Unit DCI);
- Safeguarding & Specialist Services lead manager (usually Service Manager and/or Team Manager);
- Legal Adviser (Local Authority);
- Senior Health representative e.g. Consultant Paediatrician/Designated Doctor/ Designated Nurse;
- Press Officer;
- Other individuals and agencies as appropriate.

6.87 The Group should have access to:

- legal advice including that of Crown Prosecution Service as appropriate.
- paediatric advice if Designated Doctor does not attend.
- independent or expert advice as appropriate.

6.88 Line managers of any staff implicated in the allegations of abuse must not be included in the SMG.

6.89 The Terms of Reference of the SMG must be set up as specified in the Home Office and DoH guidance.

6.90 The SMG meeting must agree a plan that includes:

- a decision on the scale of the investigation and the staff required for a Joint Investigation Group;
- consideration of any cross boundary issues and planning of appropriate liaison and sharing of resources;

- identification of staff in both Safeguarding & Specialist Services and the Police of sufficient seniority and experience to manage the investigative process (usually the Safeguarding Unit DCI and Safeguarding Service Manager);
- identification of sufficient trained staff for the investigation (must be independent of those being investigated);
- organisation of adequate accommodation including a dedicated incident room and facilities for interviewing and recording interviews;
- arrangements for medical staff to conduct assessments;
- arrangements for sufficient administrative staff and IT resources to support the investigation;
- proper legal advice including consultation with the Crown Prosecution Service;
- sufficient resources to ensure that children are protected from further abuse and that their welfare remains paramount (this should include appropriate foster, day care or residential placements, medical, therapeutic, educational and practical services);
- sufficient support, supervision and debriefing of staff involved;
- availability of expert advice where necessary;
- liaison arrangements for inter-agency working;
- timescales for the stages of the investigation;
- allocation of specific tasks to personnel involved in the investigation together with line management responsibilities;
- management of public relations and media interest in the case;
- child witness support, if relevant.

6.91 An individual must be designated to act as Co-ordinator between the SMG and the Joint Investigation Group identified in the plan (usually the Police Senior Investigating Officer or the Safeguarding & Specialist Services lead manager).

6.92 The responsibility of the Co-ordinator is to manage the Joint Investigation Group and prepare a report at the conclusion of the case.

6.93 The SMG must make arrangements to convene regularly during the investigation to:

- monitor the progress, quality and integrity of the investigation;
- review risk indicators for the children involved;
- consider resource requirements;
- consider the appropriate timing of the termination of the investigation;
- plan a debrief meeting with the Joint Investigation Group to identify lessons learnt.

6.94 A dedicated team of Police Officers may be formed to deal with a cross boundary enquiry.

6.95 The SMG should remain in existence at least until the court or the Crown Prosecution Service has made a decision about the alleged perpetrators.

6.96 The SMG must report in writing to the LSCB, who must consider at the first available opportunity, whether a Serious Case Review should be initiated.

#### Joint Investigation Group Membership

6.97 This group led by the Police Senior Investigating Officer or the Safeguarding & Specialist Services lead manager, should consist of experienced personnel from Police Safeguarding Unit and Safeguarding & Specialist Services (or independent agency or social workers).

6.98 The size of the group will depend on the scale of the investigation, but in the majority of cases both the Safeguarding Unit and Safeguarding & Specialist Services should provide a line manager and two staff/officers experienced in interviewing children and trained in *Achieving Best Evidence in Criminal Proceedings*.

6.99 Membership may also be drawn as necessary from the appropriate health professionals, in particular Forensic Medical Examiners (FME), Paediatricians, Psychiatrists, Health Visitors, Education (Head Teachers and Class Teachers), YOS staff, Crown Prosecution Service, Corporate & Legal Services, Probation, Victim Support services.

6.100 In selecting staff, consideration should be given to requirements arising from the individual needs of the relevant child/ren, e.g. gender, culture, race, language, and where relevant, disability.

### Practical Arrangements

- 6.101 The location of the Group must take account, both geographically and organisationally, of the need to maintain confidentiality, especially crucial where the investigation concerns staff or carers.
- 6.102 Appropriate facilities must be available for video interviews and paediatric assessments.
- 6.103 Administrative support, IT and accommodation requirements must be addressed at the outset, including the storage of confidential records. Consideration should be given to whether it is necessary to set up separate accommodation for the enquiry team.
- 6.104 Certain enquiries may involve an element of ‘whistle blowing’. It may be necessary to consider a secure telephone line and discreet access to the enquiry team.

### Responsibilities

- 6.105 The Joint Investigation Group will be responsible for:
- planning the overall investigation involving record checking, evidence gathering, planning and undertaking a series of inter-related interviews and any surveillance required considering the implications of crossing geographical boundaries;
  - maintenance of written records of regular Strategy and Operational Meetings;
  - holding Planning Meetings for individual pieces of work e.g. video interview of a child and/or action to protect a child;
  - gathering other evidence including forensic evidence, interviews with alleged abusers, witnesses and other corroborative evidence;
  - communication and liaison with other agencies on a ‘need to know’ basis;
  - convening inter-agency meetings and/or child protection conferences as appropriate;
  - co-ordination and timing of therapeutic services;
  - regularly updating the SMG on the progress made and recommending when to close the investigation;

- consideration of arrangements for court hearings and support to children and families;
- recommendations as to the placement of children and any contact involving children and their siblings, relatives or other adults.

### Crossing Geographical & Operational Boundaries

- 6.106 It may be recognised at the outset or during the investigation that there are suspected or potential victims in more than one geographical area.
- 6.107 At the outset, the responsibility for managing the investigation lies with the Safeguarding & Specialist Services where the abuse is alleged to have occurred/where the alleged perpetrator(s) are alleged to operate.
- 6.108 Once it is recognised that there are suspected or potential victims in other areas a joint approach should be made by the SMG to the appropriate Safeguarding & Specialist Services and the Police.
- 6.109 The original Joint Investigation Group should undertake the investigation on behalf of the other geographical areas.
- 6.110 A Senior Manager from each area should join the initiating SMG to discuss this and agree any resource implications involved.
- 6.111 If the number of victims outside the geographical boundaries of the original Joint Investigation Group increases to the extent that it cannot respond, then a Joint Investigation Group in the new geographical area should be established.
- 6.112 It is essential that there is a joint SMG to provide overall planning. If it is necessary to have more than one Joint Investigation Group, there must be close working between Co-ordinators and processes for full information sharing.

### Supporting the Victims

- 6.113 It is vital that a strategy to support the victims is established from the outset. The strategy should consider support needs for all victims and their families and necessary support for all witnesses. The strategy should identify possible resources to provide the necessary support. Aftercare support should be agreed and details about how to access aftercare should be made available to victims, witnesses and their families

## **FEMALE GENITAL MUTILATION (FGM)**

### Introduction

- 6.114 The Female Genital Mutilation Act 2003 strengthens and amends the 1985 legislation. It makes it an offence for the first time for UK nationals or permanent UK residents to carry out FGM abroad, or to aid, abet, counsel or procure the carrying out of FGM abroad, even in countries where the practice is legal. The 2003 Act also increases the maximum penalty for committing or aiding the offence from 5 to 14 years imprisonment.
- 6.115 The Foreign and Commonwealth Office has issued multi-agency practice guidelines on this subject entitled "[Female Genital Mutilation](#)." The guidelines also contain Appendices of available FGM Specialist Health Services and Organisations working on issues around FGM.

### What is Female Genital Mutilation?

- 6.116 FGM is a collective term for procedures which include the partial or total removal of the external female genital organs for cultural or other non-therapeutic reasons.

### What are the effects of Female Genital Mutilation?

- 6.117 FGM is very harmful. It is not like male circumcision. It causes long-term mental and physical suffering, difficulty in giving birth, infertility and even death.

### What does the Law say about Female Genital Mutilation?

- 6.118 FGM has been specifically illegal in the UK since the Prohibition of Female Circumcision Act 1985, but it has been possible to get round the law by having the procedure done out of the country. The Female Genital Mutilation Act 2003, explicitly makes it illegal to take girls abroad for FGM.

### Who is affected by Female Genital Mutilation?

- 6.119 The age at which girls undergo FGM varies enormously according to the community. The procedure may be carried out when the girl is newborn, during childhood or adolescence, just before marriage or during the first pregnancy. However the majority of cases of FGM are thought to take place between the ages of 5 and 8, therefore girls within that age bracket are at a higher risk.

6.120 There can be specific factors that may heighten a girl's risk of being affected by FGM:

- The position of the family and the level of integration within UK society – it is believed that communities less integrated into British society are more likely to carry out FGM.
- Any girl born to a woman who has been subjected to FGM must be considered to be at risk, as would other female children in the extended family.
- Any girl who has a sister who has already undergone FGM must be considered to be at risk, as would other female children in the extended family.
- Any girl who has been withdrawn from Personal, Social and Health Education or Personal and Social Education may be at risk as a result of her parents wishing to keep her uninformed about her body and rights.

How can you tell if Female Genital Mutilation is an issue in Durham?

- 6.121 FGM is much more common than most people realise. It is estimated that there are around 74,000 women in the UK who have undergone the procedure and that over 20,000 girls under the age of 15 are at high risk of FGM. This estimate is based on the number of women and girls living in the UK who originate from countries where FGM is traditionally practised, such as Yemen, Oman, Malaysia, Indonesia and the United Arab Emirates as well as 28 countries in Africa from Gambia to Somalia.
- 6.122 There are substantial populations from these countries in the big cities like London, Liverpool, Birmingham, Sheffield and Cardiff, but FGM is not necessarily confined to these areas.
- 6.123 Girls of school age, who are subjected to FGM overseas, are thought to be taken abroad at the start of the school holidays in order for there to be sufficient time for the child to recover from the procedure before returning to her studies.

Safeguarding Children from Female Genital Mutilation

*Preventive Strategies*

- 6.124 Working Together to Safeguard Children (2010) para 6.19 says that in local areas where there are communities or individuals who traditionally practice FGM, the LSCB's policy should focus on a preventive strategy involving community education.

6.125 FGM is deeply embedded in the culture of the practising community who may resent what they perceive as the imposition of liberal western values on them, but it is not a matter which can be left to personal preference or culture and custom. FGM is an extremely harmful practice that violates the most basic Human Rights. However, any community education should be sensitive to the cultural norms and pressures on parents and children.

6.126 It may be most useful to try to engage community groups and elders or religious leaders in community education programmes. It is extremely important that those running programmes are not seen as alien to the practice. This may create animosity and paranoia within the practising communities and make it harder to safeguard children from FGM. Organisations who can provide more information about community education programmes include:

<u>Agency for Culture and Change Management</u>	<u>Black Women’s Health and Family Support</u>
<u>Foundation for Women’s Health, Research and Development (FORWARD)</u>	

6.127 Another equally important part of community education is ensuring that all local agencies that come into contact with children are aware of the need to safeguard girls from FGM, and have the knowledge, training and support to do this. Information on the signs which indicate that a girl may have suffered FGM can be obtained from the above organisations.

*Responding to the needs of a particular child*

6.128 FGM can cause serious harm and suffering. *Working Together To Safeguard Children* (2010) highlights that a Local Authority may exercise its powers under s47 of the Children Act 1989 if it has reason to believe that a girl is likely to be or has been the subject of FGM.

6.129 **The following principles should be adopted by all agencies when identifying and responding to girls (and unborn girls) at risk of, or who have experienced FGM:**

- **The safety and welfare of the child is paramount.**
- **All agencies should act in the interests of the child as outlined in the United Nations Convention (1989).**
- **FGM is not a matter that can be left to be decided by personal preference – it is an extremely harmful practice. Professionals should not**

let fears of being branded “racist” or “discriminatory” weaken the protection required by vulnerable girls.

- It is acknowledged that some FGM practicing families do not see it as an act of abuse. However, FGM has severe significant physical and mental health consequences, both in the short term and the long term, and must not be excused, accepted or condoned.
- All decisions or plans should be based on good quality assessments and be sensitive to the issues of race, culture, gender, religion and sexuality subject to the caveat that FGM is illegal in the United Kingdom.

6.130 It is important to note that FGM differs from other forms of child abuse in two important ways:

1. Despite the severe consequences, parents and others who have done this to their daughters genuinely believe it is in the girl’s best interest to conform with their prevailing custom **and they consider FGM as normal, to protect their cultural identity** – they do not intend it as an act of abuse;
2. There is no element of repetition – it is a one-off act of abuse – although younger female siblings may be at risk.

6.131 Where a family has been identified as at risk, it may not be appropriate to take steps to remove the girl from an otherwise loving family environment. Experience has shown that often the parents themselves are under pressure to agree to FGM for their daughters from older relatives.

6.132 It might be helpful, therefore, to talk to the family outside the home environment to encourage them to acknowledge the impact FGM would have on their daughter(s). It might also be necessary to ask the Police to get a Prohibited Steps Order, making it clear to the family that they will be breaking the law if they arrange for any of their daughters to have the procedure.

6.133 **Safeguarding girls, at risk of harm through FGM, poses specific challenges because the families involved may give no other cause for concern, for example with regard to their parenting responsibilities or relationships with their children. However, there remains a duty for all professionals to act to safeguard girls at risk.**

6.134 Good practice when dealing with matters involving FGM include:

- Making enquiries – In general, enquiries should be undertaken by police officers and social workers. However there may be occasions when professionals may wish to make informal enquiries before involving the police if, for example a girl has been absent from school for a prolonged period. In these circumstances, it is important not to reveal that enquiries are related to FGM, as this may increase the risk to the girl. If the fact that the enquiries relate to FGM needs to be shared, this should only be shared with professionals who are made aware of the need to handle such information appropriately.
- Disclosure and confidentiality – To safeguard children, as required by UK law, it may be necessary to give information to people working in other agencies or departments. For some professionals this can present a dilemma when it involves going beyond the normal boundaries of confidentiality. Nonetheless, both law and policy allows for disclosure, where the information is needed in order to protect a child. Referrals to other professionals or agencies should be undertaken using existing and agreed procedures.
- A child centred approach – Whatever an individual's circumstances, they have rights that should always be respected. However, there may be times when a child wants to take a course of action that may put them at risk. On these occasions professionals should explain all the outcomes and risks to the child and take the necessary child protection precautions. However, FGM is a criminal offence in the UK and must not be permitted or condoned.

*Practice guidance*

- 6.135 Where there are investigations of this nature, partner responses should be coordinated under existing Section 47 child protection procedures. Once concerns are raised about FGM, there should also be a consideration of a possible risk to other children in the family. Professionals should be alert to the fact that any of the girl children could be identified as being at risk of FGM and may then need to be responded to as a child in need or a child in need of protection.

*Strategy meeting*

- 6.136 On receipt of a referral, a strategy meeting must be convened as soon as practicable and should involve representatives from the police, children's social care, education professionals and health services as a minimum requirement. Health providers or voluntary organisations with specific expertise should also be considered for attendance, as well as the ability to take legal advice.
- 6.137 The strategy meeting must first establish whether the parents or girl has had access to information about the harmful aspects of FGM and the law in the UK. If not, they should be given appropriate information.
- 6.138 Every attempt should be made to work with the parents on a voluntary basis to prevent the abuse. It is the duty of the investigating team to look at every possible way that parental cooperation can be achieved, including the use of community organisations to facilitate the work with the family.
- 6.139 However, any agreement reached must be carefully monitored and enforced with the child's interests always paramount.
- 6.140 The first priority is the protection of the child. Here, the primary focus is to prevent the child undergoing any form of FGM.
- 6.141 If the strategy meeting decides that the girl is in immediate danger of FGM and/or professionals consider that her parents will proceed with the procedure, then an Emergency Protection Order should be sought.

*Guidance when a girl has already undergone FGM*

- 6.142 A strategy meeting should be convened as soon as possible and will consider how, where and when the procedure was performed and the implications of this. The strategy meeting will need to consider carefully whether to continue enquiries or whether to assess the need for support services.
- 6.143 If there is evidence of any criminal act having taken place (for example the FGM took place in the UK or was performed or was assisted by a British resident overseas), legal advice must be sought and a criminal investigation conducted.

## **HONOUR BASED VIOLENCE & FORCED MARRIAGE: SAFEGUARDING CHILDREN & YOUNG PEOPLE**

- 6.144 Durham LSCB recognise that so-called honour based violence and forced marriage is a human rights violation, contrary to the European Convention on Human Rights and Human Rights Act 1998, and that honour-based violence involves the commission of criminal offences. Honour Based Violence may be committed not only against the persons directly involved in the behaviour which is perceived as dishonourable, but also against persons believed to have assisted or conspired in the behaviour.
- 6.145 These procedures are for all staff of Durham LSCB partner agencies.
- 6.146 The new guidelines are available.
- 6.147 Police should refer to their own Durham Constabulary Honour Based Violence and Forced Marriage policy and procedures.

### What Honour Based Violence Means

- 6.148 Honour-based violence (HBV) is a crime or incident which has or may have been committed to protect or defend the honour of the family and/or the community.
- 6.149 HBV is a fundamental abuse of Human Rights. It is collections of practices, which cuts across all cultures, nationalities, faith groups and communities and are used to control behaviour to protect perceived cultural and religious beliefs and/or honour. Such violence can occur when perpetrators perceive that a relative has shamed the family and/or community by breaking their honour code.
- 6.150 It can be distinguished from other forms of violence, as it is often committed with some degree of approval and/or collusion from family and / or community members.
- 6.151 Examples may include murder, unexplained death (suicide), fear of or actual forced marriage, controlling sexual activity, domestic abuse (including psychological, physical, sexual, financial or emotional abuse), child abuse, rape, kidnapping, false imprisonment, threats to kill, assault, harassment, forced abortion. This list is not exhaustive.
- 6.152 Staff must be aware that an incident of domestic abuse does not become HBV simply because the parties involved are of Black Minority Ethnic (BME) origin. HBV occurs where violence is committed as a result of a perception that the victim has brought **shame or dishonour** upon the family or community.

6.153 HBV may be committed by male and female offenders.

#### What Forced Marriage Means

6.154 Forced Marriage is **not** an arranged marriage but a marriage where one or both parties are forced to marry against their wishes.

6.155 In forced marriage, one or both spouses do not consent to the marriage and some element of duress is involved. Duress includes both physical and emotional pressure. Forced marriage is primarily, but not exclusively, an issue of violence against females. Most cases involve young women and girls aged between 13 and 30, although there is evidence to suggest that as many as 15% of victims are male. These procedures are aimed at dealing with forced marriage for children/young people aged less than 18 years old.

6.156 Forced marriage is a Human Rights abuse. It can constitute both child abuse and sexual abuse. The United Nations considers it a form of trafficking, sexual slavery, and exploitation. Some, however, still see it as a private, personal, domestic, family, religious, or cultural issue. It is none of these – it is an example of abuse.

6.157 A clear distinction must be made between a **forced** marriage and an **arranged** marriage. The tradition of arranged marriages has operated successfully within many communities and many countries for a very long time. In arranged marriages, the families of both spouses take a leading role in arranging the marriage but the choice of whether or not to accept the arrangement remains with the young people.

6.158 In 2004 the Government's definition of domestic abuse was extended to include acts perpetrated by extended family members as well as intimate partners. Consequently, acts such as forced marriage and other so-called 'honour crimes' which can include abduction and homicide, can now come under the definition of domestic abuse. Many of these acts are committed against children. The Government's Forced Marriage Unit produced guidelines in conjunction with children's social care and the DfE on how to identify and support young people threatened by forced marriage.

6.159 In many cases the individual will be westernised and pressure will be brought to bear by refusing to allow them out of the home unless chaperoned, withdrawal or threat of withdrawal from education and the barring of contact with friends. In some cases the individual is taken to the country of their extended family where their ability to resist the marriage is unlikely.

- 6.160 Honour Based Violence cuts across all cultures and communities: Pakistani, Bangladeshi, Indian, Turkish, Kurdish, Afghani, African, Middle Eastern, South and Eastern European for example. This is not an exhaustive list. Where a culture is heavily male dominated, HBV may exist.
- 6.161 Perpetrators of HBV may commit serious offences **including murder** upon closest relatives and/or others to achieve a number of purposes including forced marriage to:
- protect the family ‘honour’ or Izzat;
  - respond to family, community or peer group pressure;
  - protect the perceived cultural and/or religious ideals;
  - controlling disapproved sexual behaviour or orientation (including perceived promiscuity or being lesbian, gay, bisexual or transgender);
  - punishing perceived immoral behaviour including:
    - pre-marital or extra-marital sexual relations;
    - kissing or showing other forms of intimacy in public;
    - rejecting a forced marriage;
    - being a victim of rape or other serious sexual assault;
    - inter-faith relationships;
    - seeking a divorce;
    - inappropriate make-up or dress;
    - possession and/or use of a mobile telephone;
    - truanting from school or rejecting being removed from school.
- 6.162 The above list is not exhaustive.

### Confidentiality

- 6.163 Confidentiality is an extremely important issue for any child/young person threatened with, or already in, a forced marriage.
- 6.164 Very careful consideration must be given in relation to who is to be given what information, which must be on a ‘need to know’ basis only. This applies to practitioners as well as members of the family or the community. Any disclosure, which could lead to the child/young person who is in a safe place being traced, could put him/her at considerable risk of harm from family or others.
- 6.165 **Information is not to be shared with anyone, without the express consent of the child/young person, unless it is necessary to do so in order to protect him/her. The best interests of the child/young person must be the paramount consideration.**

- 6.166 Friends or members of the family may attempt to trace the whereabouts of a child/young person, sometimes use organised networks. These include family and community members, bounty hunters, taxi drivers, shop keepers and people who have access to records such as staff from Benefits Offices, GP surgeries and Housing Departments. Information on case files and database files should be kept strictly confidential and preferably restricted to named members of staff only, in all involved agencies.
- 6.167 All professionals and particularly those in Safeguarding & Specialist Services, should very carefully consider, in these special circumstances, what information is placed on accessible computer systems, own agency records, and reports to, and records of, inter-agency discussions/meetings.
- 6.168 Social workers and other practitioners may be placed under pressure from relatives, councillors, MPs and those with influence within the community to say where a young person is. Under no circumstances is this information to be divulged.

#### Referral to Safeguarding & Specialist Services or Police

- 6.169 Information about a possible or actual forced marriage may come from the child/young person concerned or a friend or relative. It may also become apparent in relation to other family issues, such as domestic abuse, self-harm, teenage pregnancy, child abuse or neglect, family conflict or when a child/young person has gone missing.
- 6.170 Any practitioner, from any agency, or any member of the public, who has reason to believe that a child/young person may be at risk of forced marriage, or has been subject to forced marriage, whether or not the child/young person is thought currently to be in this country, must immediately refer to Safeguarding & Specialist Services via **Initial Response Team 0845 8505010** or to the Police via their dedicated telephone number **0207 008 0151**. This number is staffed 24/7 by officers trained to deal with cases of honour based violence and/or forced marriage.
- 6.171 Where the Police are the first to be informed, they are to refer to Safeguarding & Specialist Services without delay.

#### Safeguarding & Specialist Services response to Referral

- 6.172 If the first contact to Safeguarding & Specialist Services is by the child/young person, or a friend on their behalf, subject to safety and confidentiality every effort is to be made to obtain as much information as possible at that point, as there may not be another opportunity.

6.173 Information that is required includes:

- Details of the individual making the report, their contact details and relationship with the young person.
- Details of the young person under threat and contact details.
- Nationality.
- Age.
- School details.
- Full details of allegation/concerns.
- Name and address of parents.

6.174 A full list of information required can be found on page 41 Chapter 5 of Handling cases of Forced marriage.

6.175 Forced marriage may place children and young people at considerable risk of honour based violence, rape and possible physical harm, including murder.

6.176 Due to the complex and sensitive issues involved in relation to forced marriage, all referrals are to be brought to the attention of the Strategic Manager, Safeguarding & Specialist Services without delay.

6.177 All referrals about possible/actual forced marriage are to initially be dealt with under child protection processes and an inter-agency Strategy Meeting/Discussion held.

#### Strategy Meeting/Discussion

6.178 By its nature cases involving Honour Based Violence and Forced Marriage will pose a likelihood of significant harm to the child and a Strategy Meeting/Discussion **must** be held within one working day. The need for immediate protection and placement away from home must be considered according to Section 5 of these procedures. If the young person is in immediate danger, then protective action must be taken, either through Police Protection or an Emergency Protection Order.

6.179 Very careful consideration must be given in relation to who is to be given what information, which must be on a 'need to know' basis only. This applies to practitioners as well as members of the family or the community. Any disclosure, which could lead to the child/young person being traced, could put him/her at considerable risk of harm from family or others.

6.180 Note that extended family is not usually an option for placement and it may be that placement needs to be out of the Local Authority area, in order to protect the child/young person.

- 6.181 Decisions are to be made in relation to legal proceedings and advice sought, from the Local Authority Solicitor, as to the most appropriate legal steps to be taken. Where possible a legal representative should attend the strategy meeting.
- 6.182 Where the professionals involved in the Strategy Meeting/Discussion consider that the child/young person is not in immediate risk of significant harm, arrangements should be made for an Initial or Core Assessment, as per the 'Framework for the Assessment of Children and Their Families' (DOH 2000) also for the child/young person to be provided with information on rights, choices and support services in relation to forced marriage.
- 6.183 Where the child/young person concerned is not in the United Kingdom, the professionals at the Strategy Meeting/Discussion are to make arrangements for as much information as possible to be discretely gathered and for the Community Liaison Unit at the Foreign & Commonwealth Office to be contacted.

#### Further Planning

- 6.184 Wherever there is protective action, or a Core Assessment, there is to be a multi-agency professional meeting to plan the future for the child/young person. This should be held at the earliest opportunity. **The child/young person is to be fully involved in the planning.**

#### Medical Examination

- 6.185 If it is necessary to arrange a medical examination for emotional or physical illness or to give attention to injuries, this should be undertaken in accordance with these procedures. However, there must be consideration as to whether using any medical practitioner from the local ethnic community may jeopardise or threaten the security of the young person. If there is seen to be a risk, then medical assistance is to be sought through another route.

### Interpreters

- 6.186 Where necessary, the services of an interpreter should be sought. Careful consideration needs to be given as to the choice of the interpreter and to the information to which s/he is to be made party. There must be consideration as to whether using an interpreter from the local ethnic community may jeopardise or threaten the security of the young person. If there is seen to be a risk, then interpreting services should be sought elsewhere.
- 6.187 Interpreters should be subject to references and Criminal Records Bureau checks. A written agreement regarding confidentiality of information should be signed. Wherever possible, the interpreter should be interpreting from his or her preferred language.

### **ALLEGATIONS AGAINST STAFF, CARERS AND VOLUNTEERS**

- 6.188 Children can be the subject to abuse by those who work with them in any setting. All allegations of abuse or maltreatment of children by a professional, staff member, foster carer, or volunteer must therefore be taken seriously and treated in accordance with the procedures (see Appendix 5). The LSCB has responsibility for ensuring there are effective inter-agency procedures in place for dealing with allegations against people who work with children, and monitoring and evaluating the effectiveness of those procedures.
- 6.189 In evaluating the effectiveness of local procedures, the LSCB should have regard to the need to complete cases expeditiously.
- 6.190 All organisations which provide services for children, or provide staff or volunteers to work with or care for children, should operate a procedure for handling such allegations which is consistent with the guidance in Appendix 5.

## SAFE WORKFORCE

**6.191 The following procedures should be used by all LSCB partner agencies, unless to do so would be to contradict any national guidance with which agencies may have to comply.**

6.192 The procedures should be followed when recruiting to any posts that involve children and young people. This includes any posts that:

- Involve direct contact with children or young people
- Involve people in senior positions who are responsible for those with direct contact with children or young people
- Involve frequent or intensive support work where there may be contact with children or young people
- Involve frequent access to sensitive records about children and young people.

6.193 Those agencies which are required to abide by their national guidelines regarding elements of a safer workforce should continue to do so whilst taking cognisance of the following procedures.

6.194 Although the Vetting and Barring Scheme is halted whilst the Coalition Government undertakes a review of the Independent Safeguarding Authority, new safeguarding regulations introduced in October 2009 continue to apply. These include:

*A person who is barred from working with children or vulnerable adults will be breaking the law if they work or volunteer, or try to work or volunteer with those groups.*

*An organisation which knowingly employs someone who is barred to work with those groups will also be breaking the law.*

*If your organisation works with children or vulnerable adults and you dismiss a member of staff or a volunteer because they have harmed a child or vulnerable adult, or would have done so if they had not left, you must tell the Independent Safeguarding Authority.*

6.195 In October 2009, the right to ask for an enhanced CRB disclosure was extended to all those who employ or use volunteers in types of activity called 'Regulated Activity'. This right remains, and you should continue to carry out appropriate pre-recruitment checks, including CRB checks where appropriate or required by law.

- 6.196 The Independent Safeguarding Authority will continue to carry out its work as an independent decision making body as well as continuing to maintain the barred lists. They will also continue to accept referrals. Professionals using this guidance must therefore comply with the above requirements.
- 6.197 Safer practice in recruitment means thinking about and including issues to do with child protection and safeguarding and promoting the welfare of children at every stage of the process. It starts with the process of planning the recruitment exercise and, when the post is advertised, ensuring that the advertisement makes clear the organisation's commitment to safeguarding and promoting the welfare of children. It also requires a consistent and thorough process of obtaining, collating, analysing, and evaluating information from and about applicants. Main elements of the process include:
- ensuring adverts and all publicity material include a statement which outlines the agency's commitment to safeguarding;
  - ensuring the job description makes reference to the responsibility for safeguarding and promoting the welfare of children;
  - ensuring that the person specification includes specific reference to suitability to work with children;
  - obtaining and scrutinising comprehensive information from applicants, and taking up and satisfactorily resolving any discrepancies or anomalies;
  - obtaining independent professional and character references that answer specific questions to help assess an applicant's suitability to work with children and following up any concerns;
  - a face-to-face interview that explores the candidate's suitability to work with children, as well as his or her suitability for the post;
  - verifying the successful applicant's identity;
  - verifying that the successful applicant has the academic or vocational qualifications claimed;
  - checking his or her previous employment history and experience;
  - verifying that s/he has the health and physical capacity for the job;
  - ensuring that, where appropriate, an Enhanced Disclosure via the CRB and the Independent Safeguarding Authority check is received.
- 6.198 It is important not to rely solely on criminal record and Independent Safeguarding Authority checks to screen out unsuitable applicants. Those checks are an essential safeguard, but they will only pick up those abusers who have been convicted, or have come to the attention of the police, or who have been listed. Many individuals who are unsuited to working with children will not have any previous convictions, and will not be barred from working with children by the Independent Safeguarding Authority.

- 6.199 The checklist at Appendix 1 of this section provides a convenient way of signing off each stage of the process and can be filed as a permanent record at the end of the process. Completion of this checklist will fulfil the statutory requirement to maintain a record of the recruitment and vetting checks.

### Continuing Awareness

- 6.200 We know that some people seek access to children in order to abuse, and that abused children very often do not disclose the abuse at the time. We also know that some of the allegations of abuse made against staff are substantiated, and we continue to see a number of cases in which people who work with children are convicted of criminal offences involving the abuse of children.
- 6.201 It is crucial therefore that everyone working in a setting providing for children is aware of these issues, and the need to adopt ways of working and appropriate practice to help reduce allegations. And it is equally important that everyone is able to raise concerns about what seems to be poor or unsafe practice by colleagues, and that those concerns, and concerns expressed by children, parents or others are listened to and taken seriously.
- 6.202 It will often be hard to give credence to concerns particularly if they are about a long serving and trusted colleague. Unfortunately those concerns will sometimes be true and it is important that they are taken seriously and not simply dismissed. Where concerns have not been taken seriously in the past, a person has been able to continue abusing children, sometimes for many years. It is vital therefore that all concerns are taken seriously and that, where appropriate, action is taken in accordance with the procedures for dealing with allegations against staff.

### Safer Recruitment Practice

- 6.203 Each LSCB partner agency should have an explicit written recruitment and selection policy statement and procedures that comply with national and local guidance. The statement should detail all aspects of the process and should link to their child protection policy and procedures.
- 6.204 The policy statement should incorporate an explicit statement about the organisation's commitment to safeguarding and promoting the welfare of children. An appropriate statement should be included in any model recruitment and selection policy that a local authority or HR adviser provides to establishments. For example:

*“This organisation is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment”.*

6.205 The statement should be included in:

- publicity materials;
- recruitment websites;
- advertisements;
- candidate information packs;
- person specifications;
- job descriptions;
- competency frameworks;
- induction training.

### Planning & Advertising

6.206 Planning is vital to successful recruitment. It is important to be clear about what mix of qualities, qualifications and experience a successful candidate will need to demonstrate, and whether there are any particular matters that need to be mentioned in the advertisement for the post in order to prevent unwanted applications. It is essential to plan the recruitment exercise itself, identifying who should be involved, assigning responsibilities, and setting aside sufficient time for the work needed at each stage so that safeguards are not skimmed or overlooked. For example, it is important to organise the selection process to allow references to be obtained on short listed candidates before interview.

6.207 The person specification will need careful thought and drafting. It is also good practice to make sure at the outset that all the other material, e.g. the application form, job description, and information or guidance for applicants that will form part of the candidate information pack is up to date, and clearly sets out the extent of the relationships and contact with children, and the degree of responsibility for children that the person will have in the position to be filled.

6.208 The time and effort spent in this stage of the process should help minimise the risk of making an unsuitable appointment.

6.209 When a vacancy is advertised, the advertisement should include a statement about the employer’s commitment to safeguarding and promoting the welfare of children, and reference to the need for the successful application to undertake an Enhanced Disclosure via the CRB, where appropriate, as well as the usual details of the post and salary, qualifications required, etc.

## Application Form

6.210 Employers should use an application form to obtain a common set of core data from all applicants. It is not good practice to accept curriculum vitae drawn up by applicants in place of an application form because these will only contain the information the applicant wishes to present and may omit relevant details.

6.211 The following information should be obtained for recruitment purposes:

- full identifying details of the applicant including current and former names, date of birth, current address, and National Insurance number;
- a statement of any academic and/or vocational qualifications the applicant has obtained that are relevant to the position for which s/he is applying with details of the awarding body and date of award;
- a full history in chronological order since leaving secondary education, including periods of any post-secondary education or training, and part time and voluntary work as well as full time employment, with specific start and end dates, explanations for periods not in employment, education or training, and reasons for leaving employment;
- a declaration of any family or close relationship to existing employees or employers (where relevant, this should include senior officers, councillors and governors).
- details of referees. One referee should be the applicant's current or most recent employer, and normally two referees should be sufficient. NB: Where an applicant who is not currently working with children has done so in the past it is important that a reference is also obtained from the employer who most recently employed the applicant to work with children. The form should make it clear that references will not be accepted from relatives or from people writing solely in the capacity of friends; *and*
- a statement of the personal qualities and experience that the applicant believes are relevant to his or her suitability for the post advertised and how s/he meets the person specification.

6.212 The application form should include an explanation that the post is exempt from the Rehabilitation of Offenders Act 1974 and therefore that all convictions, cautions and bind-over's, including those regarded as "spent", must be declared. And it should require a signed statement that the person is not barred from working with vulnerable groups, or subject to sanctions imposed by a regulatory body, e.g. the General Teaching Council (GTC),

and either has no convictions, cautions, or bind-over's, or has attached details of their record in a sealed envelope marked confidential.

6.213 It should record that:

- where appropriate the successful applicant will be required to provide a CRB Disclosure at the appropriate level for the post;
- the prospective employer will seek references on short listed candidates, and may approach previous employers for information to verify particular experience or qualifications, before interview;
- if the applicant is currently working with children, on either paid or voluntary basis, his or her current employer with children will be asked about disciplinary sanctions relating to children, including any in which the penalty is time expired (that is where a warning could no longer be taken into account in any new disciplinary hearing for example) and whether the applicant has been barred from working with children or vulnerable adults or has been the subject of any child protection concerns, and if so, the outcome of any enquiry or disciplinary procedure. If the applicant is not currently working with children but has done so in the past, that previous employer will be asked about those issues;
- providing false information is an offence and could result in the application being rejected, or summary dismissal if the applicant has been selected, and possible referral to the Police.

### Job Description

6.214 This should clearly state:

- the main duties and responsibilities of the post; *and*
- the individual's responsibility for promoting and safeguarding the welfare of children and young persons s/he is responsible for, or comes into contact with.

6.215 All work in universal services for children involve some degree of responsibility for safeguarding children, although the extent of that responsibility will vary according to the nature of the post.

## Person Specification

6.216 This should:

- include the qualifications and experience, and any other requirements needed to perform the role in relation to working with children and young people;
- describe the competencies and qualities that the successful candidate should be able to demonstrate;
- explain how these requirements will be tested and assessed during the selection process. For example:

*“In addition to candidates’ ability to perform the duties of the post, the interview will also explore issues relating to safeguarding and promoting the welfare of children including:*

- *motivation to work with children and young people;*
  - *ability to form and maintain appropriate relationships and personal boundaries with children and young people;*
  - *emotional resilience in working with challenging behaviours; and*
  - *attitudes to use of authority and maintaining discipline; and*
- explain that if the applicant is short listed any relevant issues arising from his or her reference will be taken up at interview.

## Candidate Information Pack

6.217 The pack should include a copy of:

- the application form, and explanatory notes about completing the form;
- the job description and person specification.
- any relevant information about the local authority or establishment and the recruitment process, and statements of relevant policies such as an organisation which knowingly employs someone who is barred to work with children will be breaking the law, the authority or establishment’s policy about equal opportunities, the recruitment of ex-offenders, etc.;
- the establishment’s child protection policy statement; *and*
- a statement of the terms and conditions relating to the post.

### Guidelines for References

- 6.218 The purpose of seeking references is to obtain objective and factual information to support appointment decisions. They should always be sought and obtained directly from the referee. Employers should not rely on references or testimonials provided by the candidate, or on open references and testimonials, i.e. “To Whom It May Concern”. There have been instances of candidates forging references. Open references and testimonials might be the result of a compromise agreement and are unlikely to include any adverse comments.
- 6.219 All written references should be obtained prior to interview (this is based on best practice in the Warner report).
- 6.220 The applicant must always consent to references from current or most recent employers.
- 6.221 For agency staff, references are checked by contacting the candidate’s last place of employment. If permission is not given, or the last employer does not provide a reference, concerns about the applicant’s suitability for the post will be raised.
- 6.222 References should always be sought directly from a minimum of two referees.
- 6.223 The use of a reference pro forma is advised as questions about the candidate’s suitability to work with children can be directly asked. If a reference pro forma is not utilised, references should be on original company/organisation headed paper.
- 6.224 Open ended (“to whom it may concern”) references are never accepted.
- 6.225 Copies of the job description and person specification should be attached to the reference request.
- 6.226 Best practice would require that every reference request should ask:
- The referee’s relationship with the candidate, how long the candidate has been known to them, and in what capacity;
  - Whether the referee is satisfied that the applicant has the ability and is suitable to perform the job in question.
  - For specific comments about the person’s suitability for the post, and how they have demonstrated their ability to meet the person specification.

- Whether the referee can confirm that the candidate is suitable to work with children and if not, to provide specific details of concerns and reasons why.
- Confirmation of the applicant's current post, salary and sick record.
- For specific verifiable comments on the applicant's performance history and conduct.
- For details of any disciplinary procedure the applicant has been subject to and any disciplinary sanctions which are current or spent and whether the former employer has referred the applicant to the Independent Safeguarding Authority for inclusion in their barred lists.
- For details of any disciplinary procedures the applicant has been subject to which have involved issues relating to safety and welfare of young people, including any where the disciplinary sanction has expired and the outcomes of those.
- For details of any allegations or concerns that have been raised about the applicant that relate to the safety or welfare of children or young people or behaviour towards young people, and the outcomes of those concerns, i.e. whether allegations or concerns were investigated, the conclusion reached and how the matter was resolved.

6.227 Referees should be reminded they have a responsibility to ensure the reference is accurate and does not contain any material misstatement or omission. They should provide relevant factual content that could be discussed with the individual.

6.228 On receipt of references, checks should be made that all questions have been answered.

6.229 For the successful candidate, a follow up telephone call to the referee should be made to confirm their identity. Clear records must be kept of the conversation. (See 'Choosing with Care: The report of the Committee of Inquiry into Selection, Development and Management of Staff in Children's Homes' Warner 1992)

6.230 References should be checked for consistency with application form.

6.231 Details/discrepancies between references and the application form should be discussed with the applicant at interview.

- 6.232 Past disciplinary actions or allegations should be considered in the circumstances of the particular case, including the outcome of any enquiry, and the views and levels of concern expressed by the professionals handling the case.

### Scrutinising & Shortlisting

- 6.233 All applications should be scrutinised to ensure that they are fully and properly completed, that the information provided is consistent and does not contain any discrepancies, and to identify any gaps in employment. Incomplete applications should not be accepted.
- 6.234 All candidates should be assessed against the criteria contained in the person specification without exception or variation.

### Checks before Interview

- 6.235 Any anomalies or discrepancies or gaps in employment identified by scrutiny should be noted, so that they can be taken up as part of the consideration of whether to short list the applicant or, if the applicant is short listed, clarified at interview. As well as reasons for obvious gaps in employment, the reasons for a history of repeated changes of employment without any clear career or salary progression, or a mid-career move from a permanent post to agency work, supply teaching or temporary work, also needs to be explored and verified.
- 6.236 If a short listed applicant claims to have some specific qualification or previous experience that is particularly relevant to the post for which s/he is applying that will not be verified by a reference, it is good practice to verify the facts before interview so that any discrepancy can be explored at interview.

### Interviews

- 6.237 The interview should assess the merits of each candidate against the job requirements, and explore their suitability to work with children. The selection process for people who will work with children should always include a face to face interview even if there is only one candidate.
- 6.238 Personal interviews, also known as Warner interviews are particularly useful when recruiting to a post which involves direct work with children in settings such as residential homes. (See Appendix 3 of this section). The aim of the Warner interview is to establish a fuller picture of the candidate than the traditional one interview system.

### Invitation to Interview

- 6.239 In addition to the arrangements for interviews – time and place, directions to venue, membership of the interview panel – the invitation should remind candidates about how the interview will be conducted and the areas it will explore including suitability to work with children.
- 6.240 The invitation should state that documentary evidence of the candidate's identity is needed. Therefore a driving license or passport including a photograph, full birth certificate and a utility bill or a financial statement that shows their current name and address needs to be presented on the day of interview.
- 6.241 Candidates should be asked to bring documents confirming any educational and professional qualifications that are necessary or relevant for the post. If the candidate cannot produce original documents or certified copies, it is their responsibility to obtain written confirmation of this from the awarding body.
- 6.242 A copy of the document used to verify the successful candidate's identity and qualifications must be kept for the personnel file.

### Interview Panel

- 6.243 A minimum of two interviewers, preferably three is required, and in some cases, e.g. for senior or specialist posts, a larger panel might be required.
- 6.244 The members of the panel should:
- have the necessary authority to make decisions about appointment;
  - be appropriately trained in recruitment and selection, have undertaken their own agency's Safe Workforce training or LSCB Safe Workforce Training or have been fully briefed by the lead officer who has attended the training listed.
  - meet before the interview to:
    - reach a consensus about the required standard for the job to which they are appointing;
    - consider the issues to be explored with each candidate and who on the panel will ask about each of those; *and*
    - agree their assessment criteria in accordance with the person specification.

- 6.245 The panel must agree in advance a list of questions for each candidate that they will not deviate from, but they should agree a set of questions they will ask all the candidates relating to the requirements of the post, and the issues they will explore with each candidate based on the information provided in the candidate's application and references (if available). A candidate's response to a question about an issue will determine whether and how that is followed up. Where possible it is best to avoid hypothetical questions because they allow theoretical answers. It is better to ask competence based questions that ask a candidate to relate how s/he has responded to, or dealt with, an actual situation, or questions that test a candidate's attitudes and understanding of issues.
- 6.246 Involving young people in the recruitment and selection process is recognised as good practice.

#### Scope of Interview

- 6.247 In addition to assessing and evaluating the applicant's suitability for the particular post, the interview panel should ask questions which explore:
- the candidate's attitude and motivation to work with children and young people;
  - his or her attitude towards safeguarding and promoting the welfare of children;
  - gaps in candidate's employment history; *and*
  - the candidate's response to any other concerns or discrepancies arising from the information provided by the candidate and/or a referee.
- 6.248 If, for whatever reason, references are not obtained before the interview, the candidate should also be asked at interview if there is anything s/he wishes to declare or discuss in light of the questions that have been (or will be) put to his or her referees. It is vital that the references are obtained and scrutinised before a person's appointment is confirmed and before s/he starts work.

## Pre-Appointment Checks

- 6.249 Appointments should never be made subject to references.
- 6.250 A formal offer of appointment to the successful candidate should only be made following:
- Previous employment history must be checked;
  - Any information disclosed on the application form must be checked;
  - the receipt of at least two satisfactory references;
  - verification of the candidate's identity (if that could not be verified straight after the interview);
  - an ISA check including a satisfactory CRB disclosure and, where appropriate, Home Office checks.
  - verification of the candidate's medical fitness;
  - verification of qualifications (if not verified after the interview);
  - verification of professional status where required, e.g. GTC or GSCC registration.
  - Verification of employability within the UK from Home Office or UK Borders Agency.
  - Employers should make it clear to prospective employees that above checks will be made before an offer of employment is made;
  - Where relevant checks made against NHS alert system and Armed Forces checks.
- 6.251 The authority or establishment should seek advice from its HR or personnel services provider, and follow relevant CRB guidance if a disclosure reveals information that a candidate has not disclosed in course of the selection process.
- 6.252 All checks should be:
- confirmed in writing;
  - documented and retained on the personnel file (subject to relevant advice contained in the CRB Code of Practice and the organisation's own data protection arrangements); *and*
  - followed up where they are unsatisfactory or there are discrepancies in the information provided.
- 6.253 The facts must be reported by the lead officer within 10 working days, and the offer of appointment not made or withdrawn where:
- the candidate is found to be barred from working with children by the ISA or the CRB disclosure raises concerns;
  - an applicant has provided false information in, or in support of, his or her application,

**6.254 The facts must be reported to the police and/or the ISA where there are serious concerns about an applicant’s suitability to work with children**

CRB Disclosures on Overseas Candidates

- 6.255 CRB disclosures must be completed on all potential staff. In addition, criminal records information should be sought from countries where individuals have worked or lived.
- 6.256 No newly appointed employee should be permitted to work with children without documented evidence of a clear check or a documented risk assessment approved by an authorised manager while the outcome from a check is being awaited.
- 6.257 Failure to receive an outcome from a check must be rigorously pursued and the employee’s position reviewed at weekly intervals.
- 6.258 Because there is no consistent approach to sharing criminal records throughout all countries; the potential employer must satisfy themselves that all relevant checks have been rigorously pursued and that verification of employability within the UK has been sought from the Home Office or the UK Borders Agency.

Post Appointment: Induction

- 6.259 There must be an induction programme for all newly appointed staff and volunteers in an establishment, regardless of previous experience. The purpose of induction is to:
- provide training and information about the establishment’s policies and procedures;
  - support individuals in a way that is appropriate for the role for which they have been engaged;
  - confirm the conduct expected of staff within the establishment;
  - provide opportunities for a new member of staff or volunteers to discuss any issue or concerns about their role or responsibilities; *and*
  - enable the person’s line manager or mentor to recognise any concerns or issues about the person’s ability or suitability at the outset and address them immediately.
- 6.260 During the induction/probationary period, the worker always works under supervision. The level of supervision will be dictated by the role of the worker.

6.261 The content and nature of the induction process will vary according to the role and previous experience of the new member of staff or volunteer, but as far as safeguarding and promoting the welfare of children is concerned the induction programme should include written information about, and written statements of:

- policies and procedures in relation to safeguarding and promoting welfare, e.g. child protection, anti-bullying, anti-racism, physical intervention or restraint, intimate care, internet safety and any local child protection and safeguarding procedures;
- safe practice and the standards of conduct and behaviour expected of people in the establishment;
- how and with whom any concerns about those issues should be raised; *and*
- other relevant personnel procedures, e.g. disciplinary, capability and whistle-blowing.

6.262 The programme should also include attendance at child protection training appropriate to the person's role, in line with the agency's training strategy. Induction training should include a specific section regarding safeguarding children/vulnerable adults.

### Maintaining a Safer Culture

6.263 It is important that all staff have appropriate training and induction so that they understand their roles and responsibilities and are confident about carrying them out. Staff need to feel confident that they can raise issues or concerns about the safety or welfare of children, and that they will be listened to and taken seriously. That can be achieved by maintaining an ethos of safeguarding and promoting the welfare of children and young people and protecting staff which is supported by:

- a clear written statement of the standards of behaviour and the boundaries of appropriate behaviour expected of staff that is understood and endorsed by all;
- appropriate induction and training;
- regular briefings and discussion of relevant issues;
- training regarding safeguarding and child protection is mandatory for all staff who work with children and young people.
- additional training for managers in relation to the recruitment of staff which is updated regularly.
- relevant training for employees who do not have direct contact with children and young people but who do have access to information systems which contain sensitive information;
- a regular and supportive supervision and appraisal process

- all managers are accountable for evidencing that such training for themselves and their staff has been undertaken.
- Publication of relevant safeguarding procedures or HR legislation/procedures

#### Starting Work Pending a CRB Disclosure

- 6.264 It is best safeguarding practice to obtain CRB disclosure before an individual begins work and this rule should be adhered to wherever possible. It must in any case be obtained as soon as practicable after the individual's appointment and the request for a CRB disclosure should be submitted in advance of the individual starting work. Some agencies have discretion to allow an individual to begin work pending receipt of the CRB disclosure but should ensure that the individual is appropriately supervised, that all other checks, including an ISA check have been completed and that this and other information is included in a risk assessment.
- 6.265 Close personal supervision for individuals who start work prior to the result of a CRB disclosure being known is required. They must not work with children or vulnerable adults in an unsupervised capacity. For all staff without completed CRB disclosures it should be made clear that they are subject to this additional supervision. The nature of the supervision should be specified and the roles of staff in undertaking the supervision spelled out. The arrangements should be reviewed regularly, at least every two weeks until the CRB disclosure is received.
- 6.266 Before taking on a member of supply staff from an agency, relevant CRB disclosures must be provided. Where there is disclosed information, a copy of the CRB disclosure must be obtained from the agency. If the CRB disclosure has not been received yet by the agency, the employing organisation must require the agency to notify it of the content as soon as it is received. Organisations must be satisfied that recruitment agencies have robust risk assessments in place, to assess the significance of any received disclosure information.
- 6.267 Where a CRB disclosure raises concerns about an individual working with vulnerable groups, the member of staff must immediately be withdrawn from work with children or vulnerable adults, pending further enquiries. Advice should be sought from the organisations Human Resource department, and the Local Authority Designated Officer informed.

**APPENDIX 1: Recruitment & Selection Checklist**

**For further information and guidance, please refer to Safeguarding Children & Safer Recruitment in Education**

**(January 2007)**

<b>Pre-Interview</b>	<b>Initials</b>	<b>Date</b>
<p><b>Planning</b> Timetable decided: job specification and description and other documents to be provided to applicants reviewed and updated as necessary. Application form seeks all relevant information and includes relevant statements about references, etc.</p>		
<p><b>Vacancy Advertised (where appropriate)</b> Advertisement includes reference to safeguarding policy, i.e. statement of commitment to safeguarding and promoting the welfare of children, and need for successful applicant to be CRB checked.</p>		
<p><b>Applications</b> Scrutinised on receipt – any discrepancies/anomalies/gaps in employment noted to explore if candidate considered for short listing.</p>		
<p><b>Shortlist Prepared</b></p>		
<p><b>References</b> Sought directly from referee on short listed candidates: ask recommended specific questions: include statement about liability for accuracy.</p>		
<p><b>References</b> On receipt checked against information on application; scrutinised; any discrepancy/issue of concern noted to take up with applicant (at interview if possible).</p>		
<p><b>Invitation to Interview</b> Includes all relevant information and instructions.</p>		
<p><b>Interview Arrangements</b> At least two interviewers: panel members have authority to appoint; have met and agreed issues and questions/assessment criteria/standards.</p>		

<b>NB:</b> Identity and qualifications of successful applicant verified on day of interview by scrutiny of appropriate <b>original</b> documents: copies of documents taken and placed on file; where appropriate applicant completed applicant for CRB disclosure.		
<b>Conditional Officer of Appointment: Pre-Appointment Checks</b> Offer of appointment is made conditional on satisfactory completion of the following pre-appointment checks and for non-teaching posts a probationary period.		
<b>References</b> (if not obtained and scrutinised previously)		
<b>Identity</b> (if that could not be verified straight after interview)		
<b>Qualifications</b> (if not verified on the day of interview)		
<b>Permission to work in UK</b> (if required)		
<b>CRB</b> – where appropriate satisfactory CRB disclosure received		
<b>ISA Vetting and Barring check</b> - person is not prohibited from taking up the post		
<b>Health</b> – the candidate is medically fit		
<b>GTC England</b> (for teaching posts in maintained schools and non-maintained special schools) the teacher is registered with the GTC or exempt from registration.		
<b>QTS</b> – (for teaching posts in maintained schools the teacher has obtained QTS or is exempt from the requirement to hold QTS (for teaching posts in FE colleges the teacher has obtained a Post Graduate Certification of Education (PGCE) or Certificate of Education (Cert. Ed.) awarded by a High Education Institute (HEI), or the FE Teaching Certificate conferred by an Awarding Body))		
<b>Statutory Induction</b> (For teachers who obtained QTS after 7 May 1999)		

**APPENDIX 2: Sample Reference Request Form.**

**APPLICANT**

**POST APPLIED FOR**

**REFEREE**

**POSITION/ORGANISATION**

**Please confirm the following details:**

**The applicant's period of employment with you: From To:**

**The applicant's current or last job title within your organisation:**

**Your work relationship to the applicant (i.e. previous line manager)**

**With regard to the job description and person specification attached, please comment on the applicant's suitability for this appointment. It would also be helpful if you could describe any strengths or weaknesses you consider the applicant has demonstrated during their employment (please continue on a separate sheet if necessary).**

**Space for specific questions relating to the role (i.e. for questions relating to leadership qualities, successful implementation of projects, involvement in budgetary/resource issues).**

**Please comment on the effectiveness of the applicant's working relationships with other people (for example children, young people, colleagues, parents and governors).**

**Please comment on whether you are completely satisfied that the applicant is suitable to work with children. If not, please provide specific details of concerns and reasons for disquiet.**

**Has the applicant been referred by you to the ISA to be included in any barred list?**

**Has the applicant ever had an allegation made against them, or been under investigation, or the subject of a disciplinary enquiry or warning? If so, please provide details including how the issue was resolved.**

**Do you have any other comments on the applicant's performance history and conduct?**

**Attendance/Health record:**

**Please comment on the applicant's punctuality and reliability.**

**Reason for leaving (e.g. voluntary resignation, dismissal, etc.):**

**In similar circumstances and with your present knowledge, would you re-employ the applicant? If not, please say why.**

**Printed name:**

**Signature:**

**Position:**

**Organisation (official organisation stamp)**

### **Appendix 3: Criteria for Personal (aka Warner) Interviewing**

Personal interviews, also known as Warner interviews, have typically been used, alongside the formal interview, in residential social care settings. The mandate for this type of interview came from ‘Choosing with Care: The report of the Committee of Inquiry into Selection, Development and Management of Staff in Children’s Homes’ (Warner, 1992). According to Lord Warner, preliminary interviews can be seen as a ‘less structured and more informal process than the final interview’. (Choosing with Care Chapter 4 Selecting Staff para 4.37)

Warner recommended that employers should undertake a ‘preliminary interview’ to ask questions that would probe candidates about their personal life, attitudes and motivations in order to establish a fuller picture of the character of the applicant and their suitability to work with the client group.

Warner considered that any concerns about the infringement of equal opportunities on the grounds that different questions are asked of different candidates, are misplaced. He goes so far as to say that an employer could be considered to be negligent in not making use of a preliminary interview to explore sensitive personal issues to assess the suitability of a candidate to work with children. He goes on to propound that large interview panels are unsuited to undertaking such a task. Proper staff training for those undertaking preliminary interviews is essential.

‘The aim should be to achieve a full and rounded picture of the candidate, providing more detailed and complete information than is possible with the traditional application form - interview system.’ (Choosing with Care as above para 4.5)

Warner recognised that the ‘exploration of personal issues or spontaneous follow-up questions are seen as difficult by some employers, particularly local authorities’ (Choosing with Care Chapter 4 Selecting Staff para. 4.3)

Nevertheless it is important that questions are focussed around attitudes to control and punishment of children and the motivation of the candidate to work with children and young people. The questions asked at a pre-interview session should be on a one-to-one basis with the interviewer and the candidate. Ideally, the process will also enable candidates to have a full understanding of the requirements of the post and its complexities.

The purpose of the preliminary interview is twofold: to explore questions which may have been raised by any of the early selection and recruitment processes such as the application form and/or references and to consider questions which are more difficult to address in the formal interview setting.

For example, issues around sexual relationships should be included as part of this process so that the extent to which a candidate's character is strong enough to resist sexual temptation from children in their care is tested. It can also provide information about whether their sexual interests might cause them to pursue sexual relationships with children for their own gratification.

As part of preliminary interview process, the emotional stability of the candidate will need to be explored. Motivation to work with children as well as attitudes to power and authority should also be looked into.

“...assessment of candidates should be capable of considering the ability to contribute to the social, emotional, physical and spiritual needs of children and ... the methods used should focus on the values of staff, their commitment to working within and contributing to a team, their ability to work with others, including parents, and their self-confidence as people.” (Choosing with Care, 1992, Chapter 4, Selecting Staff para. 4.2)

Organisations that employ staff to work with children are best placed to determine who within their organisations should conduct such interviews. In order for the interviews to remain informal, they should be carried out by no more than two people. Written records of the interview should be made and shared with those making the final decision to appoint.

The following specific criteria should be applied when considering whether or not a particular post should carry a requirement for a personal or Warner interview:

The post requires the post-holder to work with highly vulnerable children, for example:

- Looked After Children;
- Children who are at potential risk of significant harm;
- Disabled children (who may have intimate care needs)
- Children who are excluded from school
- Children who live away from home
- Sick children

Posts where staff work with children in vulnerable situations and where they have sole care or responsibility for a child or group of children. For example:

- Staff who supervise children on activities away from home such as residential trips;
- Peripatetic professionals who work on a one to one basis with children without being supervised during such work

Any candidate who has had information disclosed about them as part of the CRB process

Post-holders, who as part of their job description, will work with abusive images of children on the internet, e.g. Police officers who work in special units, auditors of IT systems, Police forensic computer examiners.

## **APPENDIX 4: Relevant Guidance**

The following guidance issued by the Secretary of State may be relevant when drawing up policies and procedures to safeguard and promote the welfare of children in accordance with the Children Act 2004 and Section 175 of the Education Act 2002. All of these documents are available from: <http://www.education.gov.uk/schools>

<a href="#">PSHE Sex &amp; Relationship Education Guidance DfEE 0116/2000</a>
Staffing Guidance Under <a href="#">Section 35</a> (8) and <a href="#">36</a> (8) of the Education Act 2002
<a href="#">School Security – a legal toolkit</a>
<a href="#">Child Protection: Procedures for Barring or Restricting People Working with Children in Education</a>
<a href="#">Caring for Young People and the Vulnerable: Guidance for preventing abuse of trust</a> (published by the Home Office, Department for Education & Employment, Department of Health, National Assembly for Wales and the Northern Ireland Office)
Work Related Learning at Key Stage 4: Advice for Practitioners on Legal Background & Other Areas DfES0132/2003
<a href="#">Preventing &amp; Tackling Bullying</a> and the “ <a href="#">Don’t Suffer in Silence</a> ” anti-bullying pack for schools
<a href="#">Health &amp; Safety of Pupils in Educational Visits</a> and supplementary guidance
<a href="#">Standards for Local Authorities in overseeing Educational Visits</a>
<a href="#">Standards for Adventure</a>
<a href="#">Handbook for Group Leaders</a>
<a href="#">Health &amp; Safety: Responsibilities and Powers DfES/0803/2001</a>
<a href="#">Work Experience: Legal Responsibility for Health &amp; Safety</a>
<a href="#">Safe Keeping – A Good Practice Guide for Health &amp; Safety in Study Support DfES/0197/2000</a>
<a href="#">Guidance of First Aid for Schools: Good Practice Guidance</a>
<a href="#">Drugs: Guidance for Schools DfES/0092/2004</a>
<a href="#">Education of Children &amp; Young People in Public Care</a> (published by Department of Health and Department for Education and Skills)
<a href="#">Governors Guide to the Law</a>

<p><a href="#">Together from the Start: Practical Guidance for Professionals working with Disabled Children (birth to 3<sup>rd</sup> birthday) and Their Families LA/0067/2003</a> <a href="#">SEN Code of Practice DfES/0581/2001</a> <a href="#">Supporting Pupils with Medical Needs: Good Practice Guidance</a></p>
<p><a href="#">Working Together to Safeguard Children</a> (2010) (Published by The Stationery Office on behalf of the Department for Education and Skills)</p>
<p><a href="#">Framework for the Assessment of Children in Need Practice Guidance</a> (2000) (published by Department of Health, Home Office and Department for Education &amp; Employment)</p>
<p><a href="#">What to do if you are worried a child is being abused</a>: Children's Services Guidance (published by Department of Health, Department of Culture Media &amp; Sports, Department for Education &amp; Skills, Home Office, Office of the Deputy Prime Minister and the Lord Chancellors Department)</p>
<p><a href="#">The use of force to control or restrain pupils</a></p> <p>Guidance on the use of Restrictive Physical Interventions for Staff Working with Children &amp; Adults who display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders LA/0242/2002</p> <p><a href="#">Guidance for Safer Working Practice for Adults involved with Children &amp; Young People</a></p> <p><a href="#">Guidance on the use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties</a> LEA/0264/2003</p> <p><a href="#">Safeguarding Children: A Joint Chief Inspector's Report on Arrangements to Safeguard Children</a> (published by the Department of Health)</p>
<p>Vetting and Barring Scheme: The <a href="#">Independent Safeguarding Authority</a>:</p>
<p><a href="#">Criminal Records Bureau</a></p>

## **SAFEGUARDING DISABLED CHILDREN & YOUNG PEOPLE**

### Introduction

- 6.268 Safeguarding the welfare of disabled children and young people is everybody's responsibility. Attitudes in society and amongst the children's workforce can lead to a view that abuse of disabled children does not happen or that disabled children are somehow less harmed by abuse; this in turn undermines the safeguarding of disabled children at all levels.
- 6.269 The following procedures are largely based on national multi-agency guidance 'Safeguarding Disabled Children' published in 2009 and are intended to complement other specific Durham LSCB Practice Guidance. [Section 5](#) of the LSCB Child Protection Procedures apply equally to disabled children and young people.
- 6.270 [Research evidence](#) suggests that disabled children are more vulnerable to abuse than non disabled children. More information about the research can be found in Section 9 of Durham LSCB Child Protection Procedures.
- 6.271 The term "disabled children and young people" in this context is intended as a broad and inclusive term which may include any child or young person who has a physical, sensory or learning impairment or a significant health condition. The Disability Discrimination Act 2005 (DDA) defines a disabled person as someone who has "a physical or mental impairment which has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities." According to the DDA 'substantial' means 'more than minor or trivial' and 'long-term' means that it 'has lasted or is likely to last more than a year'. Children with a disability are defined as 'Children in Need' under the 1989 Children Act. **The key issue in safeguarding disabled children is not the definition of disability used but the impact of abuse or neglect on a child's health and development, and consideration of how best to safeguard and promote the child's welfare.**
- 6.272 Inevitably, not all areas of the procedures will apply to each child or young person and their particular circumstances.
- 6.273 In accordance with the national guidance, LSCB child protection procedures start from the premise that disabled children have exactly the same human rights to be safe from abuse and neglect and to be protected from harm as non-disabled children. It is acknowledged, however that due to increased vulnerability, disabled children require additional action to keep them safe from harm. Research demonstrates that disabled children are more vulnerable to being abused than their non-disabled peers and that agencies need to be more vigilant to the need to safeguard disabled children.

**6.274 Article 2 in the United Nations Convention on the Rights of the Child (Non-discrimination):** makes it clear that all children, whatever their race, religion or abilities or whether they have a disability should be treated unfairly on any basis.

Purpose of Safeguarding Procedures for Disabled Children:

6.275 The purpose of specific procedures for disabled children is to ensure all agencies adhere to their responsibilities to:

- Safeguard from harm and promote the welfare of disabled children and young people
- Understand the particular issues which influence the safety and welfare of disabled children and ensure these are acted upon
- Ensure that the need for expertise in both safeguarding and promoting the welfare of the child, and in relation to disability is recognised and brought together in order that disabled children receive the same levels of protection from harm as non-disabled children
- Make clear the critical importance of communication with disabled children, including recognising that all children can communicate preferences if they are asked in the right way, by people who understand their needs and have the skills to listen to them
- Reinforce the right of disabled children and their families to a thorough assessment of their needs and to services, which safeguard and promote the welfare of children
- Ensure all agencies recognise that safeguarding and promoting the welfare of disabled children depends on effective information sharing, collaboration, shared expertise and understanding between agencies and professionals.

6.276 The Disability Discrimination Act (1996) made it unlawful for service providers to treat disabled people less favourably than non-disabled people for a reason related to their disability. This is the legal basis for all agencies having to ensure that their practice offers the same level of safeguarding to disabled as to non-disabled children and young people. An amendment to the DDA which came into force in December 2006 has increased the responsibility of all public bodies by giving them a duty to promote disability equality.

- 6.277 The public sector equality duties, as part of the Single Equality Act 2010, are unique pieces of equality legislation. They give public bodies, including maintained schools, Academies and Pupil Referral Units, legal responsibilities to demonstrate that they are taking action on equality in policymaking, the delivery of services and public sector employment.
- 6.278 The duties require public bodies to take steps not just to eliminate unlawful discrimination, harassment and victimisation but also to actively promote equality including equality for children and young people with a disability.
- 6.279 Discrimination of all kinds is an everyday reality in many disabled children's and young people's lives and such prejudice may damage them both physically and emotionally. It is therefore imperative that stereotyped assumptions should be avoided.
- 6.280 In addition, black and minority ethnic children and young people, particularly Asian children and young people, are over-represented in the numbers of disabled children and young people and frequently are even more isolated. Many experience additional discrimination and experience additional difficulties and challenges in accessing and receiving appropriate services.
- 6.281 Some young people with learning disabilities may be at risk of forced marriage. Research figures demonstrate that although people of all nationalities can be forced into marriage the practice most commonly occurs in families of South Asian origin and that it happens to children with learning disabilities for a range of reasons with potentially a number of abusive consequences. [Guidance regarding how to respond to concerns regarding forced marriage](#) is available in section 6 of the Durham Local Safeguarding Children Procedures.
- 6.282 All children and young people should have the opportunity to achieve optimal development according to their circumstances and age. Disabled children and young people have a right to services which support and safeguard them and maximise their independence.

What does this mean for practice?

6.283 Durham LSCB expect that:

- The training and working practices within all agencies will ensure that any beliefs that disabled children are not abused, or that minimise the impact of abuse on disabled children are addressed. All agencies should recognise that these beliefs can lead to the denial of or failure to report abuse or neglect.
- Professionals from all agencies ensure that disabled children at risk of abuse/who have experienced abuse are treated with the same degree of professional concern given to non-disabled children
- Agencies ensure that additional time and resources are available to ensure a thorough and meaningful investigation of abuse. This is a basic premise and should not be ignored at any stage of the safeguarding process.
- The impairment with which a child presents does not detract from early multi-agency assessments of need that consider any underlying causes for concern
- Where a criminal offence is alleged, investigation by the police is handled sensitively and in accordance with the national guidance covering this; 'Achieving Best Evidence.'
- Work is undertaken with parents or carers in relation to the vulnerability of their children to abuse or neglect.

6.284 The reporting of safeguarding concerns needs to be encouraged at all levels of professional involvement. Prompt and detailed information sharing is vital.

Direct Payments/Self Directed Support

6.285 Direct Payments/Self Directed Support is the scheme whereby, following an assessment by the children's service disabled children's team, parents are provided with a budget to purchase support services to meet the assessed need of their child. Whilst the use of personal budgets and direct payments supports empowerment and choice for parents/carers and disabled young people it can also contribute to vulnerability of abuse if safer recruitment practices are not adopted, e.g. checks are not made to ensure that the person providing the service is suitable to do so. If minimum requirements in respect of checks and references are not followed unsuitable people may be employed.

- 6.286 Durham County Council has in place policies that ensure any person working with disabled children through the Direct Payments Scheme does not commence work without an enhanced CRB check. These procedures must be adhered to when arranging a service through a Direct Payment. The Local Authority will exercise discretion in making payments and will decline to do so if they consider a child may be placed at risk of harm.
- 6.287 Leaflets are available for parents with regard to safe care, when employing someone to care for their child.

#### Possible Indicators of Abuse

- 6.288 Disabled children can, of course, be abused and neglected in the same way as non-disabled children, however they can also be abused in ways that other children cannot. In addition to this the early indicators suggestive of abuse or neglect can be more complicated for practitioners to recognise and understand.
- 6.289 Professionals in all agencies who come into contact with disabled children and young people are in a position to identify indicators that the child may be suffering or may be at risk of significant harm. They need to have a greater awareness of the possible indicators of abuse or neglect as the situation can often become more complex. Guidance regarding how to respond to such situations is provided in [Section 5](#) of the Durham Child Protection Procedures which apply equally to disabled children and young people. A child/young person's disability should always be considered when considering whether significant harm might be indicated. For example a bruise in a site that might not be of concern on an ambulant child/ young person, such as the shin, might be of concern on a non-mobile child/young person.
- 6.290 Disabled children and young people they may also be at risk of being abused in other ways including:
- **Force feeding** or inappropriate feeding, which would include withholding food or not using prescribed food
  - Their **personal care** needs may not be met adequately, e.g. a child who smears or soils is left in unhygienic conditions
  - **Physical restraint** being carried out unnecessarily or not in accordance with available guidelines
  - **Rough handling**, this would include for example disproportionate use of force when dressing or undressing a child

- **Extreme behaviour modification** including the deprivation of clothing, medication or food, limiting movement, restricting freedoms, being locked in or confined in small spaces (see section on restrictive practices below).
- **Misuse of medication**, sedation, heavy tranquillisation or withholding medication against medical advice
- Being denied **access to medical treatment**
- **Deliberate misapplication of programmes or regimes**, this would include for example Occupational Therapist or Physiotherapist guidance advice not being followed which may result in the child experiencing complications in the future
- **Deliberate misuse of ill-fitting equipment** e.g. callipers, sleep board which may cause injury or pain, inappropriate splinting
- They may be more vulnerable to abuse via Information and Communication Technology (**ICT**)
- **Inappropriate restriction** (i.e. long periods in wheelchair/bed when this against professional advice)

6.291 As with other children, disabled children are potentially vulnerable to abuse from [fabricated or induced illness](#), which is where parents/carers seek unnecessary medical attention for the child. If this is suspected then staff should refer to the specific guidance regarding this in Section 6 of these procedures.

6.292 Professionals may find it more difficult to attribute indicators to abuse or reluctant to act on concerns in relation to disabled children and young people because of a number of factors which may include:

- Over identifying with the child/young person's parents/carers and being reluctant to accept that abuse could have taken place, or seeing abuse as being attributable to the stress and difficulties of caring for a disabled child/young person
- A lack of knowledge about the impairment and its impact on the child/young person
- A lack of knowledge about the child/young person, e.g. not knowing the child/young person's usual behaviour or demeanour
- Not being able to understand the child/young person's communication
- Confusing behaviours that may indicate the child/young person is being abused with those associated with the child/young person's impairment
- Denial of the child/young person's sexuality

- The child/young person having a number of carers.
- A failure to recognise that behaviour, including sexually harmful behaviour or self-injury, may be indicative of abuse.

6.293 Some health/medical complications may influence the way symptoms present or are interpreted. Certain indicators may be present that are attributable to the child/young person's condition or medical treatment. For example some anti-convulsants may lead to spontaneous bruising and some particular conditions can cause fragile bones increasing the likelihood of fractures during normal day-to-day activities. It is essential therefore that relevant and pertinent information is incorporated into any assessment and recorded clearly on a child/young person's file. This may include communication methods used by the child/young person to understand and express themselves, impact of disability, numbers of care givers, and level of care required etc. Where there are concerns about a child/young person it is essential that workers with the required knowledge and skills, and who know that child, are involved promptly.

6.294 Where a worker is not clear if a child/young person's particular injury or behaviour is indicative of abuse, or is associated with their disability, they should seek advice from a professional who knows the child and the implications of their disability well, for example, a paediatrician, a school nurse, a teacher. For advice regarding how to respond to concerns or allegations regarding individuals who work with children please see below

## Listening to and Communicating with Disabled Children and Young People

*“Ascertaining how and what a child communicates is key to safeguarding them whatever their level of impairment”*

(Marchant and Page, NSPCC, 2003 p62)

- 6.295 Many disabled children and young people have a communication impairment which creates barriers in reporting difficulties, worries or abuse. Children who use alternative means of communication are particularly vulnerable due to the limited number of people they can tell; in addition to this many children are not taught or given the words they need to disclose abuse.
- 6.296 Additional means of communication include objects, pictures, symbols and signs, electronic communication device, British Sign Language, Makaton and finger spelling etc. Professionals such as speech and language therapists, occupational therapists and physiotherapists, doctors and school nurses can provide advice and support for disabled children/young people and may be able to advise on a range of communication issues. As some disabled children and young people use methods of communication that are very personal to them, it is important to involve professionals who know the child well, e.g. teachers, residential social workers. Deaf children/deaf parents must have access to a social worker with signing skills and knowledge of deaf culture and issues. Workers must not rely on parents/carers to speak for the child or use someone who may be abusing the child to assist with communication. If the assessment is related to an allegation or concern about an individual who works with the child then it would not be appropriate to involve that individual, and careful thought must be given as to whether it is appropriate to use another person from the same establishment or team. Any such decision would need to be made in a child protection strategy discussion.
- 6.297 All reports that are written about a disabled child or young person should include their views, wishes and feelings, and how they have been ascertained. Any particular communication needs that they have must be met. When acting under s47 (the Local Authority duty to investigate) the 2004 Children Act amends the 1989 Children Act to strengthen the Local Authority’s responsibility to “ascertain the child’s wishes and feelings regarding the action to be taken with respect to him” [Children Act 2004 section 53].
- 6.298 The best practice for disabled children is for a worker with appropriate communication skills to be allocated, where this is not possible the worker who best understands the child should be included throughout the assessment.
- 6.299 Workers should identify any barriers to accessing information and must provide information taking account of the child/young person’s impairment and preferred communication methods and make it available within agreed time frames.

## Making a Referral

- 6.300 Disclosing abuse is difficult for any child; for a disabled child it may be particularly difficult as they may not have the means to communicate their abuse experience. For some disabled children with speech, language and communication needs, making known that they have been subject to abuse, neglect or ill treatment is dependent on the positive action undertaken by professionals.

- 6.301 Where a professional has concerns that a disabled child may be abused or neglected, they should follow their own agency policy and procedures for making a referral to the Initial Response Service. Of the utmost importance however, is to share such concerns at the first opportunity, either with an appropriate manager or with the designated member of staff who has responsibility for safeguarding in the agency, so that a referral can be made promptly. Referral should include as much information as possible including any significant events and chronologies and identifies the impact of disability as this is vital in evaluating the likelihood of significant harm. Written confirmation of the referral should be sent to the Initial Response Service within 24 hours of making a referral by telephone. ([See section 5 of these procedures](#))
- 6.302 If the concerns raised are not thought to require a referral to children's social care, this decision and the reason for it should be recorded in the child's records. Workers should consider whether it may be appropriate to undertake an assessment using the Common Assessment Framework (CAF). There should be liaison with any other agencies to ensure appropriate support services are in place.

#### Referrals to the Initial Response Service

- 6.303 The Initial Response Service will record information from the referrer on the relevant IT systems in relation to all referrals made. In addition the following questions should be asked when a referral is received concerning a disabled child:
- 6.304 For disabled children additional information will be required and more questions will need to be asked, such as:
- What is the disability, special need or impairment that affects the child? Ask for a description of the disability e.g. "learning disability" doesn't describe how it impacts on the child or his or her needs
  - How is the impairment/condition spelt?
  - How does the disability or impairment affect the child on a day to day basis?
  - How does the child communicate or express their wants and needs?
  - Is the child able to express if they are happy or sad?
  - Has the disability been diagnosed or medically assessed?
  - Who is the most appropriate person to respond to this referral? It is essential that an assessment of a disabled child is undertaken by staff that have the knowledge and the awareness to assess the risk of harm to a disabled child and know how to work best together to provide a high quality service to the child.

### 6.305 Children with

- A significant and long term physical or sensory impairment
- A severe learning disability
- A life threatening or life limiting medical condition
- A severe communication disorder

will be investigated by a social worker from the Disabled Children's Team, who have both knowledge and experience in safeguarding disabled children. The team includes a social worker for deaf and hearing impaired children and young people.

#### Investigation and Assessment

6.306 Disabled children are subject to the same procedures for investigating abuse as non-disabled children. In addition It is crucial that in relation to a disabled child or young person the investigation is planned and carried out in a way which is informed by an understanding of their impairment. The safeguarding needs of any siblings living in the family home also need to be considered and this will involve joint working with Safeguarding teams. Practitioners need to be mindful that siblings may also perpetrate abuse against the disabled child. Where the parents of a disabled child have a disability themselves, arrangements need to be put in place to respond appropriately to their needs throughout the investigation/assessment process and there should be liaison with Adult Social Care. Link with adult's policies and procedures – [Working Together in the Delivery of Services to Children and Adults](#).

6.307 Where an investigation is being planned as a result of concerns about significant harm to a disabled child or young person, an early strategy discussion should be held involving key professionals who know them. Specific considerations for the strategy discussion or meeting include:

- Are extra resources are required? For example, where there are communication difficulties is there a need for specialist advice so that assessments can be properly undertaken.
- How best to gather the information, is one visit enough? A first contact visit may not be enough to identify child protection concerns. There needs to be discussion with the professionals, the family and the child about the circumstances of why the referral was made.
- The child/young person's preferred communication method for understanding and expressing themselves
- Who should interview the child/young person
- Whether someone with a specialism on the child'/young person's preferred communication method should be involved
- Whether the interview will have to be significantly adapted to support the child/young person's understanding and their involvement
- Whether additional facilities or equipment is necessary

- 6.308 The number of carers involved with the child should be established as well as where the care is provided and when. A disabled child's network of carers could include short break foster carers, volunteer befrienders, sitters, personal assistants, community support workers, residential care staff, independent visitors and learning support assistants.
- 6.309 Throughout all discussions (including strategy discussions, section 47 enquiries/core assessments, the initial child protection conference and any subsequent child protection review conferences), all service providers must ensure that they communicate clearly with the disabled child and family, and with one another, as there is likely to be a greater number of professionals involved with a disabled child than with a non-disabled child.

### The Child Protection Conference

- 6.310 Where an initial child protection conference is held it is crucial that professionals who know the child or young person and who have information about the nature of their disability are involved. In addition efforts must be made to ensure that the child/young person's views are shared with the meeting. Where a child is of sufficient age and understanding to attend the meeting careful thought will need to be given as to how best to facilitate their participation.
- 6.311 The collating of medical information concerning the health needs of the child is important as it may have a bearing on the outcome of any enquiry/investigation. Where there is a need for a medical examination, consideration needs to be given to the most appropriate medical professional who should undertake the examination, the venue, timing and the child's ability to understand the purpose of the medical procedure.
- 6.312 Where there is to be a police investigation into allegations of abuse or neglect of a disabled child, those undertaking such investigations should not make presumptions about the ability of the child to give credible evidence. All such investigations should be undertaken in accordance with the practice guidance Achieving Best Evidence in Criminal Proceedings: Guidance on vulnerable or intimidated witnesses including children (Home Office, 2011), which includes specific guidance in relation to disabled children. Measures made available through the Youth Justice and Criminal Evidence Act (1999), with the introduction of intermediaries, are specifically designed to address the barriers and enable disabled children to give evidence.
- 6.313 Following any section 47 enquiries, the need for the disabled child and their family to be provided with ongoing support, should be recognised. This is especially important where disabled children have disclosed that they have been abused. The need for therapeutic services for disabled children following such experiences is not always recognised. Emotions can show themselves in other ways, for example, self-harm or challenging behaviour.
- 6.314 A very useful question to ask when assessing a disabled child is:
- "Would I consider that option if the child were not disabled?"*
- 6.315 Clear reasons are necessary if the answer is No  
(Assessing Children in Need and their Families: Practice Guidance, Department of Health, 2000 p.80)

6.316 It is important that efforts to meet these requirements do not unduly slow down the enquiry as the child or young person's safety should remain the paramount consideration at all times

6.317 Government Guidance: '[Safeguarding Disabled Children](#)' (July 2009) contains useful resources, research and assessment tools.

[Investigating Allegations of Child Abuse Involving Disabled Children/Young People as the Perpetrator](#)

6.318 Disabled young people should be supported in the development of their sexuality. This may be harder for them than their non-disabled peers as they may not have access to opportunities for this to develop appropriately. However, there may be occasions where concerns are raised that sexual behaviour between two young people is abusive, exploitative or coercive. In this event it will be essential to seek information from other professionals and the young people themselves in order to clarify the nature of their relationship, what was understood about consent and details about the incident. Investigations need to be handled with particular sensitivity with a duty of care being shown to both the victim and the alleged perpetrator. Any assessment of a concern should follow the guidance set out in [Section 11](#) – Working with Young People who Sexually Abuse.

[Allegation of Abuse carried out by an Employee, Agency Worker, Volunteer or Student against a Disabled Child or Young Person](#)

6.319 Disabled children come into contact with a wide range of carers, it is important that all staff are clear about the process that they should follow if they become aware of an allegation or concern which relates to an individual who works with children.

6.320 Where such concerns come to light they should be discussed with the Local Authority Designated Officer (LADO).

6.321 The type of concerns which should be discussed with the LADO are those concerns that indicate an individual may have:

- Behaved in a way that has harmed a child, or may have harmed a child
- Possibly committed a criminal offence against or related to a child

6.322 For further guidance regarding the management of concerns / allegations regarding people who work with children (paid staff members and volunteers) please refer to [Appendix 5](#) of these Procedures.

Restrictive Practices

- 6.323 Restrictive practices refer to any practices where one person or more restricts the movement of another. These can be physical barriers which involve a child being prevented from freedom of movement, being confined inappropriately (including for long periods of time). Examples of restrictive practices are:
- Spending long periods of time in a wheelchair within the home environment against professional advice
  - Leaving immobile children in bed for prolonged periods against professional advice
  - Locking children in a room, sometimes referred to as seclusion
  - Using “reins” for older children whilst out in the community
- 6.324 It is recognised that there are a number of disabled children who may have types of behaviour which severely challenge those who care for them. This would include for example, those who self-harm, those who target/physically harm other children in the household and those who are at risk of running away or exposing themselves to other forms of harm, if they are not under constant supervision.
- 6.325 It is often this type of behaviour that may lead parents and carers to engage in restrictive practices. Those involved with the child should not assume that the behaviours described are directly associated with the child’s disability but may be due to emotional distress / anxiety as would be the case if the child exhibiting these behaviours were not disabled. Workers should always work from the premise that children / young people who exhibit these behaviours do so for a reason.
- 6.326 When workers become aware that parents/carers are using restrictive practice then they should recognise that this requires further assessment and that parents/carers are supported to find an alternative approach to managing the child/young person’s behaviour. In most cases, and in all cases that involve locking children in, a referral must be made to the Initial Response Team. It is important that parents/carers are fully involved in the completion of this assessment. It must be identified what the parents/carers see as the behaviour issues that present with risk and which have led them to apply restrictive care to their child. This needs to include other individuals within the family (e.g. siblings) who parents/carers deem to be at risk from the disabled child’s behaviour. All such assessments should be multi-agency and involve other key agencies appropriate to the specific child. It is crucial to involve parents/carers in implementing measures which keep their child safe within their home and that parents and professionals work together to seek the best resolution.
- 6.327 The focus of all assessments should be on the child’s needs at all times. As with all assessments it is essential that the child/young person’s wishes and feelings are reflected within this assessment. It is therefore crucial that all professionals recognise the developmental and independence needs of the child concerned.
- 6.328 It is important to recognise that such situations must be assessed on a case by case basis. The multi-agency assessment should consider all available information and work with parents/carers to work out how best to protect the child and any other children in the home.

6.329 The law underlying the subject of restricting the liberty of a person is complex and cannot be dealt with fully in this guidance. Each case depends on its own facts and the distinction between a situation in which significant harm is to be inferred and one in which is not present may be a fine one. Legality depends very much on the factual context. If a child protection concern arises because of restrictive practice then legal advice should be sought by children's social care.

### **CHILD ABUSE LINKED TO BELIEF IN "SPIRIT POSSESSION"**

- 6.330 The belief in 'possession' and 'witchcraft' is relatively widespread. It is not confined to particular countries, cultures or religions, nor is it confined to new immigrant communities in this country.
- 6.331 The number of **identified** cases of child abuse linked to accusations of 'possession' are small, but the nature of the child abuse can be particularly disturbing and the children involved can suffer damage to their physical and mental health, capacity to learn, ability to form relationships and self-esteem.
- 6.332 There are a number of common factors which put a child at risk of harm, including rationalising misfortune by attributing it to spiritual forces and when a carer views a child as being 'different', attributes this difference to the child being 'possessed' or involved in 'witchcraft', and attempts to exorcise him or her. A child could be viewed as 'different' for a variety of reasons such as: disobedience; independence; bedwetting; nightmares; illness; or disability. The attempt to 'exorcise' may involve severe beating, burning, starvation, cutting or stabbing, and/or isolation, and usually occurs in the household where the child lives.
- 6.333 Agencies should look for these indicators, be able to identify children at risk of this type of abuse and intervene to prevent it. They should apply basic safeguarding children principles including: sharing information across agencies; being child focused at all times; and keeping an open mind when talking to parents and carers. They should follow these procedures in their work with all children and families, ensure they liaise closely with colleagues and make connections with key people in the community, especially when working with new immigrant communities, so that they can ascertain the different dimensions of a family's cultural beliefs and how this might impact upon child abuse.
- 6.334 Good practice guidance for agencies, *Safeguarding Children from Abuse Linked to a Belief in Spirit Possession*, was published in April 2007.

## **SAFEGUARDING CHILDREN FROM ABROAD**

### Introduction

- 6.335 Large numbers of children arrive into this country from overseas every day. Many of these children do so legally in the care of their parents and do not raise any concerns for statutory agencies. However, recent evidence indicates that many children are arriving into the UK:
- in the care of adults who, whilst they may be their carers, have no Parental Responsibility for them;
  - in the care of adults who have no documents to demonstrate a relationship with the child;
  - alone;
  - in the care of agents.
- 6.336 Evidence shows that unaccompanied children or those accompanied by someone who is not their parent are particularly vulnerable. The children and many of their carers will need assistance to ensure that the child receives adequate care and accesses health and education services.
- 6.337 A small number of these children may be exposed to the additional risk of commercial, sexual or domestic exploitation.
- 6.338 Immigration legislation impacts significantly on work under the Children Act 1989 to safeguard and promote the welfare of children and young people from abroad. This guidance refers to the current legal framework but it is important to note that regulations and legislation in this area of work are complex and subject to constant change through legal challenge, etc. The guidance intends only to reflect broadly the additional issues faced by families operating also within the context of immigration Law. All practitioners need to be aware of this context in their contact with such families. Legal advice on individual cases will usually be required by Safeguarding & Specialist Services.

### Purpose

- 6.339 The purpose of this guidance is to assist staff in all agencies to:
- understand the issues which can make children from abroad particularly vulnerable;
  - identify children from abroad who may be in need, including those who may be in need of protection;
  - know what action to take in accordance with their responsibilities.
- 6.340 As with any guidance, it is not intended to provide the answer to all situations. No practitioner or agency holds all of the knowledge; the groups of children and families change and our knowledge of specific issues is developing.

## Principles

6.341 There are some key principles underpinning practice within all agencies in relation to unaccompanied children from abroad or those accompanied by someone who does not hold Parental Responsibility. These are:

- Never lose sight of the fact that children from abroad are children first - this can often be forgotten in the face of legal and cultural complexities.
- Children arriving from abroad who are unaccompanied or accompanied by someone who is not their parent should be assumed to be children in need unless assessment indicates that this is not the case. The assessment of need should include a separate discussion with the child in a setting where, as far as possible, they feel able to talk freely.
- Assessing the needs of these children is only possible if their legal status, background experiences and culture are understood, including the culture shock of arrival in this country.
- Be prepared to actively seek out information from other sources. Beware of 'interrogating' the child.

### The Status of Children who arrive from Abroad & Legal Duties towards them

6.342 **Children who arrive in the UK alone or who are left at a port of entry by an agent** invariably have no right of entry and are unlawfully present. They are likely to be in a position to claim asylum and this should be arranged as soon as possible if appropriate. They are the responsibility of the Safeguarding & Specialist Services to support until they are 18 years of age, under Section 17 or Section 20 of the Children Act 1989. If their asylum claim is not resolved before they reach 18 years old, support after the age of 18 years is provided jointly by National Asylum Support Services (NASS) and Adult's Services.

6.343 **Children who arrive in the UK with or to be with carers without Parental Responsibility** may have leave to enter the country or visas or may be in the UK unlawfully. Safeguarding & Specialist Services may have responsibilities towards them under the Private Fostering Regulations. If the child is assessed to be in need, support can be provided by Safeguarding & Specialist Services for the child, and for the family, if this is not excluded by Section 54 of the National Immigration Act 2002. If the child is cared for by relatives, Private Fostering Regulations may not apply.

6.344 **Some children who arrive in the UK with their parents** belong to families of EEA (European Economic Area) nationals migrating into the UK. Such families cannot be supported by Safeguarding & Specialist Services except for the provision of return travel (and associated accommodation). If such families decide to stay and seek further help, Safeguarding & Specialist Services still has responsibilities towards any child who is in need, including to provide accommodation for the child alone. DWP (Department for Work and Pensions) practice is to declare such families ordinarily resident after three months and to pay benefits. Housing Department practice is to consider housing after six months. Safeguarding & Specialist Services remains in the position that services may only be provided direct to the child alone.

## Identification & Initial Action

- 6.345 Any professional comes across a child who they believe has recently moved into this country and for whom they have concerns for their welfare, the following basic information should be sought:
- The child's identity and, if possible, immigration status.
  - The carer's relationship with the child and, if possible, immigration status.
  - The child's health and education arrangements in this country.
- 6.346 This should be done in a way which is as unthreatening to the child and carer as possible.
- 6.347 If this information indicates that the child has come from overseas and is being cared for by an unrelated adult or one whose relationship is uncertain, Safeguarding & Specialist Services should be notified in order that an assessment can be undertaken.
- 6.348 The immigration status of a child and his/her family has implications for the statutory responsibilities towards the family. It governs what help, if any, can be provided to the family and how help can be offered to the child. "Legal Status" provides information about the most relevant aspects of this legislation.
- 6.349 Where families are subject to immigration legislation which precludes support to the family (see "Legal Status"), many will disappear into the community and wait until benefits can be awarded to them. During this interim period the children may suffer particular hardship, e.g. live in overcrowded and unsuitable conditions and with no access to health or educational services. They are particularly vulnerable to exploitation because of their circumstances.

### Establishing the Child's Identity & Age

- 6.350 Age is central to the assessment and affects the child's rights to services and the response by agencies. In addition, it is important to establish age so that services are age appropriate (and developmentally appropriate).
- 6.351 Citizens of EU countries will have passport or ID card (usually both). Unaccompanied children very rarely have possession of any documents to confirm their identity or even to substantiate that they are a child. Their physical appearance may not necessarily reflect his/her age.
- 6.352 The assessment of age is a complex task which often relies on professional judgement and discretion. Such assessment may be compounded by issues of disability. Moreover, many societies do not place a high level of importance upon age and it may also be calculated in different ways. Some young people may genuinely not know their age and this can be misread as lack of co-operation. Levels of competence in some areas or tasks may exceed or fall short of our expectations of a child of the same age in this country.

## Parental Responsibility

- 6.353 The Children Act 1989 is built around the concept of 'Parental Responsibility'. This legal framework provides the starting point for considering who has established rights, responsibility and duties towards a child.
- 6.354 In some cultures child-rearing is a shared responsibility between relatives and members of the community. Adults may bring children to this country that they have cared for most of their lives but who may be unrelated or 'distantly' related.
- 6.355 An adult whose own immigration status is unresolved cannot apply for a Residence Order to secure a child for whom he/she is caring.
- 6.356 Children whose parents' whereabouts are not known have no access to their parents for consent when making important choices about their life. Whilst their parents still have Parental Responsibility they have no way of exercising it.
- 6.357 Children who do not have someone with Parental Responsibility caring for them can still attend school and schools should be pragmatic in allowing the carer to make most decisions normally made by the parent.
- 6.358 Such children are entitled to health care and have a right to be registered with a GP. If there are difficulties in accessing a GP, the local Patient's Services should be contacted to assist.
- 6.359 Emergency life-saving treatment would be given if required. However, should the child need medical treatment such as surgery or invasive treatment in a non life-threatening situation, the need for consent would become an issue and legal advice would be required.
- 6.360 Safeguarding & Specialist Services has statutory duties where the child is deemed privately fostered.
- 6.361 Carers/parents are not eligible to claim benefits for their child unless they have both been granted some form of 'leave to remain' in this country by the Home Office.

## How to seek Information from Abroad

- 6.362 Seeking information from abroad should be a routine part of assessing the situation of an unaccompanied child. Professionals from all key agencies, e.g. Health, Education, Safeguarding & Specialist Services and the Police should all be prepared to request information from their equivalent agencies in the country(ies) in which a child has lived in order to gain as full as possible a picture of the child's preceding circumstances.
- 6.363 It is worth noting that agencies abroad tend to respond quicker to e-mail requests/faxed requests than by letter. Similarly, the Internet may provide a quick source of information to locate appropriate services abroad. (When e-mailing information about individual children seek advice from your Caldicott Guardian/Data Protection Officer).

Assessment

- 6.364 Any unaccompanied child or child accompanied by someone who does not have Parental Responsibility should receive an Initial Assessment in order to determine whether they are a child in need of services, including the need for protection.
- 6.365 Such children should be assessed as a matter of urgency as they may be very geographically mobile and their vulnerabilities may be greater. All agencies should enable the child to be quickly linked into universal services which can begin to address educational and health needs.
- 6.366 The assessment of children from abroad can be challenging. It is helpful to use the DOH Assessment Framework, provided that it is recognised that the assessment has to address not only the barriers which arise from cultural, linguistic and religious differences but also the particular sensitivities which come from the experiences of many such children and families.
- 6.367 The needs of the child have to be considered based on an account given by the child or family about a situation which the professional has neither witnessed nor experienced. In addition, it is often presented in a language and about a culture and way of life with which the professional is totally unfamiliar or has only basic knowledge about.
- 6.368 It is vital that the services of an interpreter are employed in the child's preferred language and that care is taken to ensure that the interpreter knows the correct dialect. If that interpreter shares more than a common language and are professionally trained, they can sometimes be a rich source of information about traditions, politics and history of the area from which the child has arrived. They may be able to advise on issues like the interpretation of body language and emotional expression.
- 6.369 **The first contact with the child and carers is crucial** to the engagement with the family and the promotion of trust which underpins the future support, advice and services. Particular sensitivities which may be present include:
- concerns around immigration status.
  - fear of repatriation.
  - anxiety raised by yet another professional asking similar questions to ones previously asked.
  - lack of understanding of the separate role of Safeguarding & Specialist Services, that it is not an extension of Police.
  - lack of understanding of why an assessment needs to be carried out.
  - previous experience of being asked questions under threat or torture, or seeing that happen to someone else.
  - past trauma.

- past regime/experiences can impact upon the child's mental and physical health. This experience can make concerns from the authorities about minor injury or poor living conditions seem trivial and this mismatch may add to the fear and uncertainty.
- the journey itself as well as the previous living situation may have been the source of trauma.
- the shock of arrival.
- the alien culture, system and language can cause shock and uncertainty and can affect the mood, behaviour and presentation.

6.370 In such circumstances reluctance to divulge information, fear, confusion or memory loss can easily be mistaken for lack of co-operation, deliberate withholding of information or untruthfulness.

6.371 The first task of the initial contact is therefore engagement. Open questions are most helpful with a clear emphasis on reassurance and simple explanations of the role and reasons for assessment. If the 'engagement' with the family is good there are more likely to be opportunities to expand on the initial contact, as trust is established.

6.372 Within the first contact with the child and carer(s) it is, however, also vital not to presume that the child's views are the same as their carer or that the views and needs of each child are the same. Seeing each child alone is crucial, particularly to check out the stated relationships with the person accompanying them (someone allegedly from the same place of origin should have a similar knowledge of the place, for example). Clearly, the professional is going to be seen as in 'power' and as such a child may believe that they must 'get it right' when they may not wholly understand the system or even the question.

6.373 If the engagement is good then there will be opportunities to expand on the initial contact. The ethnicity, culture customs and identity of this child must be a focus whilst keeping this child central to the assessment. The pace of the interviewing of a child should aim to be at the pace appropriate to the child although the need to ensure that the child is safe may become paramount in some circumstances.

6.374 Child's developmental needs. Things to bear in mind include:

- health, behaviour and social presentation can be affected by trauma and loss. Famine and poverty can have an impact upon development.
- wider health needs may need to be considered including HIV, Hepatitis B and C and TB (this applies to the parent/carer also).
- education. What has school meant to this child?
- self-care skills. Not to judge competence by comparing with a child of the same age in this country. This child may have had to be very competent in looking after themselves on the journey but unable to do other basic tasks. In some countries some children will have been working or have been involved in armed conflict. Loss of a parent can enhance or deprive a child of certain skills. Having had to overcome

extreme adversity can result in a child who is either deeply troubled or both resourceful and resilient.

- identity. Who is this child? What is their sense of themselves, their family, community, tribe, race, history?
- physical appearance. Life experience and trauma can affect this. Lack of nourishment may make the child present as younger or older.
- perceptions of what constitutes disability are relative and attitudes towards disabled children may be very different.
- the impact of racism on the child's self-image and the particular issues currently faced by asylum seeking children and their families.

#### 6.375 Parenting capacity. Things to bear in mind include:

- war, famine and persecution can make a family mobile. The family may have moved frequently in order to keep safe. The stability of the family unit might be more important to the child than stability of place. Judgements that mobility may equate with inability to provide secure parenting may be entirely wrong. In some countries regular migration to deal with exhaustion of the land is part of the culture.
- the fact that a child seems to have been given up by a parent may not imply rejection as the motive may have been to keep the child safe or seek better life chances for him/her.
- talking about parents/family can be stressful and painful.
- importance of the extended family/community rather than a Eurocentric view of family.
- not to presume that you cannot contact a parent who is living abroad unless you have established that this is the case by actively seeking to do so.
- lack of toys for a child may indicate poverty or different cultural norms rather than poor parenting capacity to provide stimulation.
- the corrosive impact on parenting capacity of racism against asylum seekers.
- the additional issues of parenting a child conceived through rape - either dealing with the negative response of the partner or with the stress of keeping it secret from him.

6.376 Family and environmental factors. The importance of economic and social hardship is apparent. In addition, there may be issues such as:

- family history and functioning may include the loss of previous high status as well as periods of destitution.
- different concepts of who are/have been important family members and what responsibility is normally assumed by the whole community, e.g. who a child should reasonably be left with.

### Children in Need of Protection

6.377 Where assessment indicates that a child may be in need of protection and child protection procedures apply, additional factors need to be taken into account. These dilemmas include such things as:

- perceptions of authority, the role of the Police in particular and the level of fear which may be generated.
- the additional implications for a family where deportation is a real threat of deciding to prosecute.
- balancing the impact of separation on a child with the likely history of separation/disruption.
- judgements about childcare practices in the context of such different cultural backgrounds and experiences.

### The Trafficking of Children

**This section should be read in conjunction with “Safeguarding Children who may have been Trafficked” 2007 DCSF and Home Office**

6.378 “Trafficking of persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

6.379 It is a rapidly growing global problem which is more than a law and order concern; it is a violation of human rights affecting all communities.

6.380 Child protection procedures will always apply where there is suspicion that a child may be being trafficked. A trafficked child or young person is a victim of a serious crime.

6.381 There is increasing evidence that children (both of UK and other citizenship) are being trafficked internally within the UK.

- 6.382 Some groups of children will avoid contact with authorities as they are instructed to do so by their traffickers. In other cases the traffickers insist that the child applies for asylum as this gives the child a legitimate right of temporary leave to remain in the UK.
- 6.383 It is suspected that significant numbers of children are referred to Local Authority children's social care after applying for asylum, and some even register at school for up to a term, before disappearing again. It is thought that they are trafficked internally within the UK, or out of the UK to other European countries.
- 6.384 All practitioners who come into contact with children and young people in their everyday work need to be able to recognise children who have been trafficked, and be competent to act to support and protect these children from harm. Practitioners may have to act on and respond to cases where they suspect a child might have been trafficked.
- 6.385 *In the 2011 strategy on human trafficking, HM Government encourages professionals to access the [London Safeguarding Children Board guidance on safeguarding trafficked children](#). This guidance is intended to help agencies identify and support children who have been trafficked. The guidance is also linked to a trafficked children toolkit, which includes a number of additional tools to assist professionals in both assign the needs of the child and the continuing risks that they may face, as well as processes around referring cases to the competent authority.*

*Possible Indicators that a child may have been Trafficked*

- 6.386 There are a number of indicators which suggest that a child may have been trafficked into the UK, and may still be controlled by the traffickers or receiving adults. These are as follows.
- 6.387 At port of entry, the child:
- has entered the country illegally;
  - has no passport or other means of identification;
  - has false documentation;
  - possesses money and goods not accounted for;
  - is malnourished;
  - is unable to confirm the name and address of the person meeting them on arrival;
  - has had their journey or visa arranged by someone other than themselves or their family;
  - is accompanied by an adult who insists on remaining with the child at all times;
  - is withdrawn and refuses to talk or appears afraid to talk to a person in authority;
  - has a prepared story very similar to those that other children have given;
  - exhibits self-assurance, maturity and self-confidence not expected to be seen in a child of such age;
  - does not appear to have money but does have a mobile phone; *and/or*
  - is unable, or reluctant to give details of accommodation or other personal details.

6.388 At port of entry, the sponsor:

- has previously made multiple visa applications for other children and/or has acted as the guarantor for other children's visa applications; *and/or*
- is known to have acted as the guarantor on the visa applications for other visitors who have not returned to their countries of origin on the expiry of those visas.

6.389 Whilst resident in the UK, the child:

- does not appear to have money but does have a mobile phone;
- received unexplained/unidentified phone calls whilst in placement/temporary accommodation;
- possesses money and goods not accounted for;
- exhibits self assurance, maturity and self-confidence not expected to be seen in a child of such age;
- has a prepared story very similar to those that other children have given;
- shows signs of physical or sexual abuse, and/or has contracted a sexually transmitted infection or has an unwanted pregnancy;
- has a history with missing links and unexplained moves;
- has gone missing from Local Authority care;
- is required to earn a minimum amount of money every day;
- works in various locations;
- has limited freedom of movement;
- appears to be missing for periods;
- is known to beg for money;
- performs excessive housework chores and rarely leaves the residence;
- is malnourished;
- is being cared for by adult/s who are not their parents and the quality of the relationship between the child and their adult carers is not good;
- is one among a number of unrelated children found at one address;
- has not been registered with or attended a GP practice;
- has not been enrolled in school;
- has to pay off an exorbitant debt, e.g. for travel costs, before having control over own earnings;
- is permanently deprived of a large part of their earnings by another person; *and/or*
- is excessively afraid of being deported.

6.390 Children internal trafficked within the UK. Indicators include:

- Physical symptoms (bruising indicating either physical or sexual assault);
- Prevalence of a sexually transmitted infection or unwanted pregnancy;
- Young person known to be sexually active;
- Reports from reliable sources suggesting the likelihood of involvement in sexual exploitation;
- Reports that the child has been seen in places known to be used for sexual exploitation;
- Evidence of drug, alcohol or substance misuse;
- Leaving home/care setting in clothing unusual for the individual child (inappropriate for age, borrowing clothing from older people);
- Phone calls or letters from adults outside the usual range of social contacts;

- Adults loitering outside the child's usual place of residence;
- Significantly older boyfriend;
- Account of social activities with no plausible explanation of the source of necessary funding;
- Persistently missing, staying out overnight or returning late with no plausible explanation;
- Returning after having been missing, looking well cared for despite having no known base;
- Missing from long periods, with no known base;
- Placement breakdown;
- Pattern of street homelessness;
- Possession of large amounts of money with no plausible explanation;
- Acquisition of expensive clothes, mobile phones or other possessions without plausible explanation;
- Having keys to premises other than those known about;
- Low self-image, low self-esteem, self-harming behaviour including cutting, overdosing, eating disorder, promiscuity;
- Truancy/disengagement with education;
- Entering or leaving vehicles driven by unknown adults;
- Going missing and being found in areas where the child or young person has no known links; *and/or*
- Possible inappropriate use of the internet and forming online relationships, particularly with adults.

6.391 The indicators above should not be read as a definitive list and practitioners should be aware of any other unusual factors that may suggest a child might have been trafficked. They are intended as a guide, which should be included in a wider assessment of the young person's circumstances. The final set of indicators are applicable to both cases of sexual exploitation and internal trafficking.

6.392 It is also important to note that trafficked children might not show obvious signs of distress or abuse and this makes identifying children who may have been trafficked difficult. Some children are unaware that they have been trafficked, while others may actively participate in hiding that they have been trafficked.

#### *Specific Actions during Initial Assessment*

6.393 As soon as suspicions are raised that a child is being trafficked, immediate action to safeguard the child is required. This includes urgent liaison with the Police. Planning of the investigations should be within a Strategy Meeting in order to ensure that both the safety of this individual child and the investigation of organised criminal activity are addressed. Use of intelligence from the port of entry may help local authority children's social care in pursuing further enquiries about the child.

6.394 Once the relevant information has been gathered, the social worker and their supervising manager, together with the Police should decide whether to convene a strategy discussion (see flowchart 4) and then whether to conduct a joint interview with the child and if necessary, with the family or carers (under no circumstances should the child and their family members or carers be interviewed together). These could involve the CAIU, the BIA and the local Police.

- 6.395 It may be helpful to involve immigration officials in this decision making as outstanding immigration concerns may need resolving.
- 6.396 All relevant information (including historical information) should be taken into account. This includes seeking information from relevant services if the child and family have spent time abroad. Professionals from agencies such as health, LA children's social care or the police should request this information from their equivalent agencies in the country or countries in which the child has lived. Information about who to contact can be obtained via the Foreign and Commonwealth Office.
- 6.397 When assessing any documentation attention should be given to the details. If a passport is being checked the official should:
- verify the date of issue;
  - check the length of the visa;
  - check whether the picture resembles the child;
  - check whether the name in the passport is the same as the alleged mother/father, and if not, why not; *and*
  - check whether it appears to be original and take copies to ensure further checks can be made if necessary.
- 6.398 Children are also trafficked for the purpose of domestic labour. These children may be less obvious and their use to the family may be more likely to be picked up during a private fostering assessment or because someone notices that they are living at a house but not in school, etc. Children who enter the country apparently as part of reunification arrangements can be particularly vulnerable to domestic exploitation.

#### *Trafficked Children who are in Care*

- 6.399 The assessment of needs to inform the care plan should cover the same dimensions of need as the assessment for any other looked after child. However in addition, for children who may have been trafficked, the assessment should include:
- establishing relevant information about the child's background;
  - understanding the reasons the child has come to the UK; *and*
  - assessing the child's vulnerability to the continuing influence/control of his or her traffickers.
- 6.400 Responding to this information ensures that the care plan includes a risk assessment setting out how the Local Authority intends to safeguard the young person so that, as far as possible, they can be protected from any trafficker to minimise any risk of traffickers being able to re-involve a child in exploitative activities. This plan should include contingency plans to be followed if the young person goes missing.
- 6.401 Given the circumstances in which potentially trafficked young people present to Local Authorities it will be extremely important that any needs assessments and related risk assessments are sensitively managed. It should allow for the child's need to be in a safe place before any assessment takes place and for the possibility that they may not be able to disclose full information about their circumstances immediately as they, or their families, may have been intimidated by traffickers.

6.402 Therefore, it will be important that:

- The location of the child should not be divulged to any enquirers until they have been interviewed by a social worker and their identity and relationship/connection with the child established, if necessary with the help of police and immigration services.
- Foster carers/residential workers should be vigilant about anything unusual, e.g. waiting cars outside the premises and telephone enquiries.
- The Local Authority should continue to share information with the Police, which emerges during the placement of a looked after child who may have been trafficked, concerning potential crimes against the child, the risk to other children, or relevant immigration matters.

6.403 Where adults present in this country claim a family connection to the child, then the Local Authority should take steps to verify the relationship between the child and these adults and exercise due caution in case they are a trafficker or a relative colluding with trafficking or exploitation of the child.

6.404 Further information can be found via HM Government "Safeguarding children who may have been trafficked"; December 2007.

### Legal Status

6.405 The legal status of a child/family may be apparent from the documentation which the family carries.

6.406 An unaccompanied child (under 18) with an asylum claim has no access to public funds. However, the provisions of the Children Act 1989 will still apply. At least three weeks prior to reaching 18 the young person should be referred and assisted to the National Asylum Support Service (NASS) for ongoing support if the asylum claim is still outstanding.

6.407 The level of support given by the National Asylum Support Service (NASS) to a young person who has turned 18 may vary if they continue to live with relatives, e.g. no contribution will be made towards rent.

6.408 This is often complicated by duties that exist towards their parent/carers. The Local Authority has no powers under the Children Act 1989 to support parents or carer. Support, including financial, can only directly benefit the child.

6.409 Some children may arrive in the UK to be rejoined with their parents. If their parents have an outstanding asylum claim, the children can be recognised as 'dependants' and granted the same status as the principle applicant. Dependants are those who:

- are related (as claimed on the asylum application); *or*
- were dependent on the principal applicant prior to arrival in the UK (even though unrelated); *or*
- had formed part of the pre-existing family unit abroad (again, even though they may be unrelated).

- 6.410 If **Indefinite** or **Exceptional** Leave to Remain (ILR/ELR) or **Humanitarian Protection** has already been granted to the parent, the child's application is considered as one for 'family reunion' and not as a 'dependent'. In these circumstances the child must have formed part of the pre-existing family unit abroad.
- 6.411 Children who are dependent on asylum seeking parents may also claim asylum in their own right and their applications are then considered individually, irrespective of the outcome of their parents' claim. The claims must be registered with the Immigration and Nationality Directorate (IND).

### Relevant Legislation

#### Nationality Immigration and Asylum Act 2002 (NIA)

- 6.412 **Section 54** is intended to discourage the concept of 'benefit shopping' within Europe. It is retrospective and applies to anyone who comes within the categories set out below. This is not dependent on the length of time they have been in the UK.
- 6.413 The Act has the effect of preventing local authorities from providing support under certain provisions including Section 21 of the National Assistance Act and Section 17 of the Children Act to:
- nationals of the European Economic Area (EEA) States (other than UK).
  - those with refugee status in another EEA state.
  - persons unlawfully present in the UK who are not asylum seekers, including those who have overstayed visa entry limit and those without confirmation of ELR/ILR leave to remain.
  - failed asylum seekers who refuse to co-operate with removal directions.
- 6.414 **Section 55** applies to those who have made or are intending to make an asylum claim in the UK. It prevents NASS from providing asylum support unless the Secretary of State is satisfied that the person applied for asylum as soon as reasonably practicable after arrival in the UK. Families with dependent children will, however, receive asylum support even if they did not apply as soon as reasonably practicable.
- 6.415 Section 55 does not apply to unaccompanied minors.
- 6.416 Those who have not yet officially lodged an asylum claim can be offered assistance with accommodation (usually overnight) and travel to Immigration and Nationality Directorate Public Caller Unit (IND) by Safeguarding & Specialist Services in order to register the claim with the Home Office. Family can then access NASS support via Refugee Action once IND has accepted the claim and provided written confirmation of this.

Sources of Information

*Documentation held by the child/family*

- 6.417 The child/family may have documentation from their previous country such as benefit letters, ID cards, GP or hospital letters, letters from other Safeguarding & Specialist Services.

*The Foreign and Commonwealth Office*

*The appropriate Embassy or Consulate*

- 6.418 The London Diplomatic List, ISBN 0 11 591772 1 from the Foreign and Commonwealth Office. It contains information about all the Embassies based in London.

*International Directory Enquiries*

- 6.419 Contact International Directory Enquiries and ask for main Town Hall number as they will have details of local offices. This can be useful where an address in a town abroad is known.

*International Children and Young Person's Services of the UK*

- 6.420 International House, Canterbury Crescent, Brixton, London, SW9 7QE.  
Tel No: 020-7926 1000.

Guidance on questions to ask potential carers of children from abroad who do not clearly have Parental Responsibility

- 6.421 It is important that the questions are re-phrased for each interview so that the interview does not become interrogatory in tone.
- 6.422 Would also need to speak to child on their own (with interpreter) in order to establish child's own views and consistency between child and adult's account of circumstances.
- 6.423 Establish carers ID and immigration status.
- 6.424 Establish any previous contact with this or other local authorities/agencies in UK and abroad.
- How do you know the child? Friend/relative
  - What is your relationship and through which parent are you related to the child?
  - How long have you personally known the child/family?
  - Please give details/names about individual family members?
  - Which town or city does the child in your care come from?
  - Please describe their family home/surroundings/environment?
  - If you have never seen this child before how do you know this child belongs to your relative?
  - Can you tell me why the child has come to this country?
  - Did the child have any contact with you prior to their arrival in this country?
  - Has the child stayed with anyone else, or in another area in this country, or on the way to Britain?
  - Are the child's parents alive or dead?
  - If alive, where are the child's parents?
  - Do you know why the parents sent their child to Britain and to you?
  - Did the parents ask you to look after the child and do you have anything in writing?
  - Are the parents aware that the child is with you?
  - Are you in contact with the child's parents and, if so, by what means?
  - Would it be possible for us to contact the child's parents?
  - Who brought the child into the country?

- Who paid for their passage?
- By which route/transport did they arrive?
- Do they have any other friends or relatives in this country?
- Are you in contact with other friends or relatives, if yes, please provide their details.
- If yes, why did they not stay with them?
- Which documentation does the child have pertaining to their identity and nationality?
- Do you have a letter from Home Office stating that you are the carer/guardian?
- How did the Home Office decide that you should be the guardian/carer?
- Do you have a partner/husband/wife, if yes, is he/she happy to continue to care for this child?
- Do you have any children? If yes, what are their ages and gender?
- How do you think caring for another child will impact on your own family/finances?
- Does the child have his own bedroom?
- What responsibility are you willing to take for the child, i.e. basic essentials/carer's role/legal responsibility?
- How long are you able to commit yourself to this responsibility?

## YOUNG CARERS

6.425 The Department of Health (1995 Chief Inspector letter CI (95) 12 defines a young carer as:

*“A young person (under age 18) who is carrying out significant caring tasks and assuming a level of responsibility for another person which would usually be taken by an adult”.*

6.426 Many children and young people who live with parents with difficulties, such as mental ill health, or substance misuse, take on caring and domestic responsibilities for the parent and/or siblings/other family members. These may include personal care, administering medication, checking up on or taking out the carer, domestic chores, and paperwork.

6.427 Young carers are often not identified as such and they, or their parents, may be reluctant to seek help or advice because of issues of stigma or fears of family break up if services become aware of their circumstances. They may not be aware of what help is available.

6.428 Caring responsibilities may lead to greater or lesser degrees of developmental problems, such as:

- a lack of time for usual childhood activities, with resulting isolation from peers and other networks;
- a lack of educational progress, poor school attendance;
- a sense of no one understanding their experiences, e.g. if professionals focus on the adult needs and peers and adults lack of understanding of the child’s home life.

6.429 Under the Carers (Recognition and Service) Act 1995, both adult and child carers have a right to an assessment of their needs as carers.

6.430 The preferred intervention should be the provision of services and support to enable the child/young person to remain in the family home with adequate opportunities for their own development activity, unless it is clear from the assessment that this is not possible without causing significant harm to the child.

## **PHOTOGRAPHIC IMAGES OF CHILDREN**

6.431 LSCB agencies developing or reviewing existing policies/guidance should as a matter of good practice include the following elements:

- Staff should be directed in the first instance to establish whether the organisation has suitable images held in approved libraries prior to generating new images.
- Guidance on obtaining consent, including agreed proformas, the duration of such consent including how images will be forwarded to publishers, etc.
- Guidance on the storage, transmission, ownership and destruction of images in line with the Data Protection Act.
- Guidance on measures to minimise the identification of children and young people.
- Guidance on the commissioning of professional photographers the content of written contracts and the registration and checking of applications from outside agencies.

6.432 See also the Information Commissioner's Office publication, "Data Protection Good Practice Note Taking Photographs in Schools"; June 2010".