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Safeguarders  
Panel

# CHILD PROTECTION POLICY AND PROCEDURE

## Contents

1. Introduction	3
2. Purpose	4
3. Scope	4
4. Context	4
5. Statement of principles	5
6. Responsibilities	6
7. Child Protection and Safeguarding Procedure (What to do and when)	7
8. Information Sharing	8
9. Recording	8
10. Safeguarders Panel support	9
11. Reporting Concerns / Whistleblowing	9
Cause for Concern about a child or Young Person - Checklist for action	11
Working definitions	12
Assessing the vulnerability of a child or young person	15
Indicators of risk of harm	16
Relevant Legislation	25
Policy context	27

## 1. Introduction

Child protection is considered in the context of the current policy drivers [Getting it Right for Every Child \(GIRFEC\)](#) and [The Early Years Framework \(2009\)](#). The Scottish Government has a clear vision for Scotland's children, that all children and young people have the right to be cared for and protected from harm and abuse, and to grow up in a safe environment in which their rights are respected and their needs are met. Children and young people should get the help they need when they need it and their well-being is always paramount.

The [National Guidance for Child Protection in Scotland \(2014\)](#) reports that parents/carers, families and communities have the primary role in safeguarding and promoting the wellbeing of children. Parents and carers have ultimate responsibility for ensuring that their child's needs are met and are often best placed to do so. Agencies and services should encourage and support parents/ carers, families and communities in carrying out that role. Early intervention and support can prevent a problem from escalating into a crisis, and ultimately ensure positive outcomes for children.

Awareness of the potential harm to children from parental issues such as alcohol and drug misuse, domestic abuse and mental health problems has increased significantly. Our understanding of the potential harm caused by children and young people running away or going missing, child trafficking, internet grooming and sexual exploitation has also increased. While these issues are not necessarily directly linked to familial responsibility, they can and do result in significant harm to children and require a response.

These procedures are compliant with the National Guidance for Child Protection in Scotland (2014) and should be read in conjunction with the national guidance **and** the [relevant local inter-agency child protection policy & procedure](#).

This procedure sets out what a Safeguarder should do when they are concerned that a child is at risk of harm. Safeguarders are asked to be alert to the signs of abuse and neglect; and follow the procedure to respond; report and record child protection concerns in line with the relevant local authority.

**“Procedures and guidance cannot in themselves protect children; a competent, skilled and confident workforce, together with a vigilant public, can”**  
*National Guidance for Child Protection in Scotland 2014*

Safeguarders are encouraged to discuss concerns with the professionals involved in the life of the child so that they can be alert to their responsibilities in the process for protecting children. Safeguarders are also encouraged to discuss concerns or review actions with the Safeguarders Panel Team.

## **2. Purpose**

Safeguarders occupy a unique role within the Children's Hearings System and are appointed by the Children's Hearing or Sheriff to the most vulnerable children at the most critical times in their lives. Safeguarders have a responsibility to safeguard the interests of children and young people throughout their appointment and the associated proceedings. This often involves a Safeguarder dealing with the complex and highly uncertain environments which face vulnerable children, young people and families. Safeguarders must be vigilant to the potential risk of harm to children and articulate this both through their recommendations and also in direct reporting of concerns.

This procedure is mandatory for all Safeguarders and they should refer to this document if they are concerned about a child or young person's safety or wellbeing. It will also set out the absolute commitment to working jointly with others to keep children safe.

## **3. Scope**

The Children's Hearings (Scotland) Act 2011 contains the current provisions relating to the operation of the Children's Hearings System and child protection orders. Section 199 states that, for the purposes of this Act, a child means a person under 16 years of age. However, section 199 also provides some exceptions to that general rule and the role of the hearing in the lives of children up to the age of 18 years (further information available in the appendices).

The National Guidance for Child Protection in Scotland (2014) states the priority is to ensure that a vulnerable young person who is, or may be, at risk of significant harm is offered support and protection and therefore this guidance is designed to include children and young people up to the age of 18.

It is also important to identify and support vulnerable pregnant women and give consideration to high-risk pregnancies within child protection processes.

## **4. Context**

The National Guidance for Child Protection in Scotland (2014) highlights that everyone in Scotland has a part to play in preventing the abuse and neglect of children and young people. A Safeguarder is independent within the context of the Children's Hearing system however they are bound by the same responsibilities set out for all professionals in legislation and policy. Safeguarders, like all agencies, professional bodies and services that deliver adult and/or child services and work with children and their families, have a responsibility to recognise and actively consider risks to a child, irrespective of whether the child is the main focus of their involvement. They are expected to identify and consider the child's needs, share appropriate and relevant information and concerns with other agencies including the

named person, and work collaboratively with other services to secure safer outcomes for the child.

The policy and legislative context for child protection is laid out in part one of the national guidance and key documents in the appendices of this document.

## 5. Statement of principles

The statements below should guide Safeguarders in all their contacts with children, young people and families.

1. The safety and wellbeing of the child is paramount and takes priority over all other activities.
2. Ensure that all children, young people, their parents and carers are given the opportunity to express their views and to be listened to.
3. Support and encourage parents, carers, families and communities to carry out their responsibilities for ensuring that their children's needs are met.
4. Maintain vigilance in all work with children, young people, their parents and carers to identify vulnerability and indicators of abuse or neglect.
5. Be mindful of the additional vulnerabilities and risks that may be present for a disabled child.
6. Raise any concerns about a child's safety or wellbeing with named person; lead professional; social work or police.
7. Ensure the action taken is justified and proportionate to the situation, and the best interests of the child are given priority.
8. Take action without delay when cause for concern about the safety or wellbeing of a child or young person is identified.
9. Protect confidentiality but, where there is reasonable cause to believe that a child or young person may be at risk of harm, share relevant information with named person; lead professional; social work or police.
10. Always seek to work in partnership with parents, carers and families, and seek their consent when possible. There may be situations when this is not possible and the child's interests and securing their safety will take priority.
11. Be committed to working in partnership with the named person and other agencies including social work, health, education and the police to ensure the safety of children and young people.

12. Securely record information about any concerns, decisions and actions in compliance with the data management guidelines for Safeguarders.

## 6. Responsibilities

All Safeguarders:

- must keep the safeguarding and protection of children and young people uppermost and central and demonstrate this in all actions, decisions and reports.
- must understand their role in the child protection process and be familiar with the local inter-agency child protection procedures.
- should always be alert to signs that a child may be experiencing significant harm and should not delay when reporting concerns or wait until they are certain. Statutory agencies will determine next steps.
- must be vigilant to the vulnerability of the children and young people they are working with and be vigilant to changes in children and young people's circumstances which could increase their risk of harm.
- must also consider any additional risks for disabled children as outlined in [additional notes for protecting disabled children from abuse and neglect \(2014\)](#).
- must respond without delay to any allegations or information suggesting that a child or young person has been, or is likely to be, abused or neglected, or at risk of significant harm, by discussing with social work or the police.
- must consider at all points the safety of all children, and not just children with whom they are working directly. In responding to a concern that a child or young person may be at risk of harm, abuse or neglect, the Safeguarder must also consider risk of harm to any other child in the household or family group.
- should draw together basic facts (e.g. name, address, concern) in the event that allegations of harm are shared with them and limit any question to establishing basic facts: what happened, where, when and by whom.
- should report any child protection concerns as per local inter-agency procedures and store notes and records securely.
- must immediately report any allegation or suspicion of harm to a child made against another professional to the individual's line manager for action. If this relates to a fellow Safeguarder this should be reported to the Safeguarders Panel Team.
- must advise relevant agencies in the event of poor engagement or a vulnerable child going missing or moving from the area.

- must, where possible, reflect concerns about risk and harm in Safeguarder reports and their analysis of the best interests of the child.

## 7. Child Protection and Safeguarding Procedure (What to do and when)

These procedures set out what Safeguarders must do when they have concerns that a young person or child is at risk of harm, abuse or neglect. **These procedures will not in themselves keep children safe, but each situation must be considered and, with reflection on the child and family's individual circumstances, acted upon.**

Any child or young person that a Safeguarder is appointed to will already be or is likely to become involved in the Children's Hearings System. As such, the local authority will have specific duties and responsibilities to carry out in relation to the child. Therefore, any response/action which may be considered and taken by the Safeguarder as a result of child protection concerns will be within this context.

- If a Safeguarder is concerned that a child or young person may have been harmed or may be at risk of harm, this concern should be passed on, without delay, to the allocated social worker/lead professional who is already involved with the child. If they are not available, their line manager should be contacted. In terms of local inter-agency child protection procedures, it is their responsibility to decide whether this will be treated as a new child protection inquiry or as part of an ongoing 'child in need' assessment.
- If a Safeguarder has any concern whatsoever that a child is in 'immediate danger' the Safeguarder should immediately contact the police advising them of the concern, in order that action can be taken to assess and address this urgent concern.
- If a Safeguarder is very concerned but is not sure if the child is in immediate danger, the allocated social worker or local social work department 'out of hours' service can be contacted to discuss the concern. This service usually operates between 5pm and 8am weekdays and during weekends and public holidays. They deal with any urgent/immediate child protection inquiries at these times which are then transferred to the Child Protection Team which operates during usual working hours.
- Safeguarders may also receive information about a child concerning their safety or wellbeing from a third party. The person passing on the concern should be advised that this information must be passed on and also the way to do this. In the first instance Safeguarders should encourage and support the concerned person to pass on their concern directly. Safeguarders should make it clear that they will pass this information to social work (if sufficient information is shared to do so).

- The Safeguarder has a responsibility to ensure information of concern is passed on to the local social work service and also to ensure it is recorded on the forms provided. This should occur even if the concerned person states that they will pass it on.
- Protecting children means recognising when to be concerned about their safety and understanding when and how to share these concerns, and what steps are required to ensure the child's safety and wellbeing. Safeguarders therefore must always discuss concerns with social work/police or seek support and guidance from the Safeguarders Panel Team.
- There may be occasions when Safeguarders have concerns that are not obviously about a child or young person's immediate safety, but about the wellbeing of a child. If this is the case, Safeguarders should always consider whether there is also a need to consult with others such as the allocated social worker; reporter or named person.
- **A guiding principle should always be - if you have a concern pass information on to social work, police or other relevant person (named person) for discussion and any action required.**

## 8. Information Sharing

The issue of information sharing between services and in respect of children and young people was clarified in correspondence from the Information Commissioner's Office on 28 March 2013:

"As GIRFEC is about early intervention and prevention it is very likely that information may need to be shared before a situation reaches crisis. In the GIRFEC approach, a child's Named Person may have concerns about the child's wellbeing, or other individuals or agencies may have concerns that they wish to share with the Named Person. While it is important to protect the rights of individuals, it is equally important to ensure that children are protected from risk of harm."

It concludes:

"Where a practitioner believes, in their professional opinion, that there is risk to a child or young person that may lead to harm, proportionate sharing of information is unlikely to constitute a breach of the Act in such circumstances."

## 9. Recording

Safeguarders must ensure that that all concerns in relation to child protection or wellbeing are recorded, stored and shared securely. Local inter-agency child protection procedures should be followed and paperwork used when making a child protection referral to the local social work department or police.

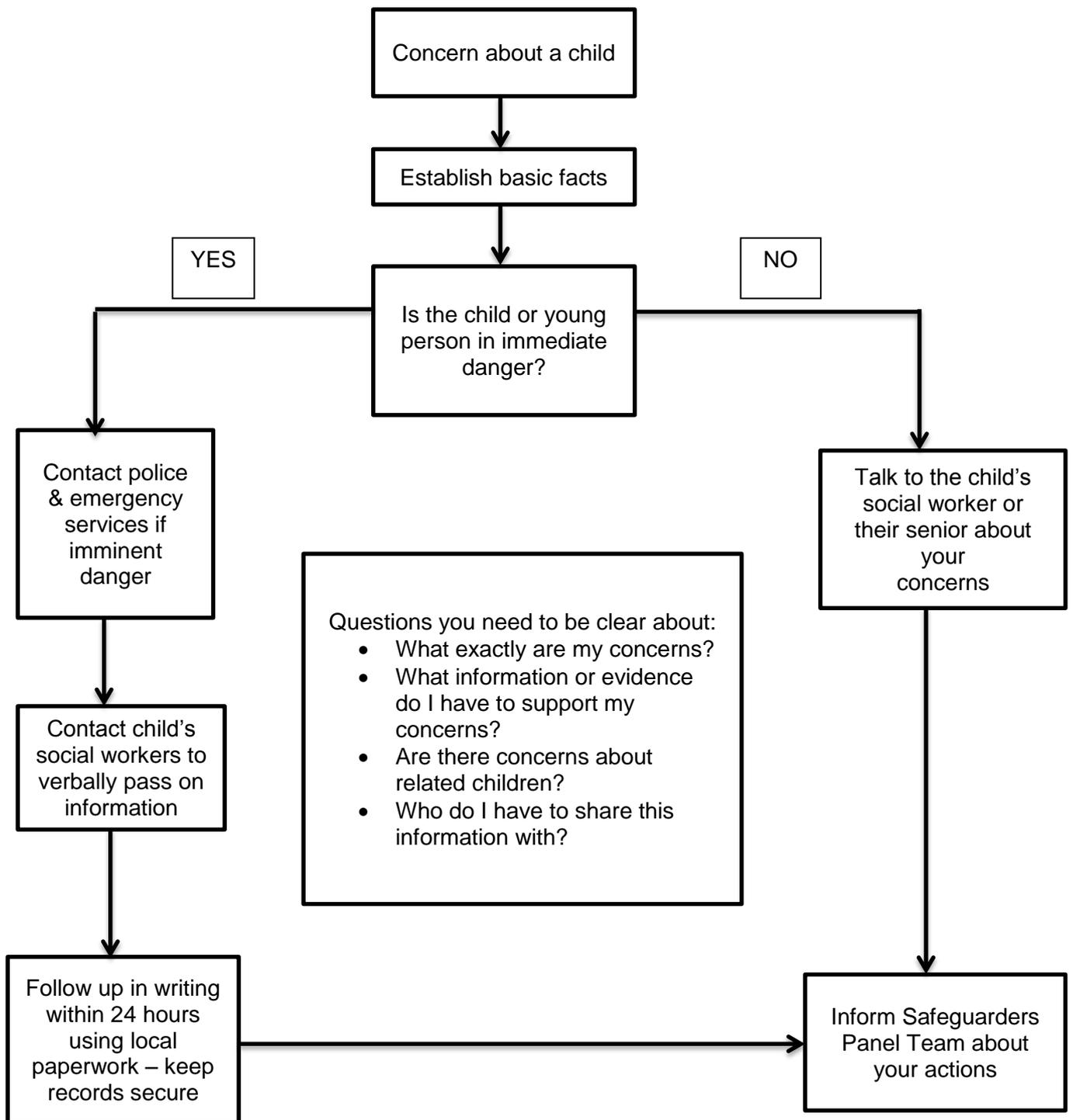
## **10. Safeguarders Panel support**

Safeguarders are encouraged to access advice and guidance on child protection and safeguarding issues that they may have to deal with. All Safeguarders must be prepared to discuss any child protection or wellbeing concerns with social work or the Safeguarder Panel Team. It is recognised that dealing with child protection issues can be complex and emotionally demanding particularly for those in a lone working role such as Safeguarders. Safeguarders are actively encouraged to contact the Safeguarders Panel Team to discuss the impact and reflect on practice.

## **11. Reporting Concerns / Whistleblowing**

It is imperative that all staff and volunteers are aware of whistleblowing. If a Safeguarder witnesses another professional engaging in behaviours that are of concern, they should report this through the relevant agency's complaints policy. If a Safeguarder has concerns about how another Safeguarder is exercising their role, they must report their concern to the Safeguarders Panel Team so appropriate action can be taken.

## Safeguarder Child Protection Flowchart



## **Cause for Concern about a Child or Young Person - Checklist for action**

*Doing nothing is not an option*

What is my concern?

Am I clear about my concerns?

What have I seen/ heard/ been told?

What potential / actual impact is this having on the child?

How safe is the child?

Have I considered the age and stage of development of the child?

Are there any other children I should be concerned about?

Does the child or any children involved have a disability?

Does this matter need to be shared with social work/ police immediately?

Who do I need to share information with and do I need consent?

Do I need to fill in an inter-agency referral form?

Have I written down my concerns, or recorded what happened securely?

Have I contacted the Safeguarders Panel Team for support and advice?

## Working definitions

### **The following are extracts for National Guidance for Children Protection in Scotland (2014)**

#### **Child protection**

This means protecting a child from abuse or neglect. Abuse or neglect need not have taken place and it is sufficient for a risk assessment to have identified a likelihood or risk of significant harm from abuse or neglect.

#### **A child protection referral**

This is when someone or an agency passes on information to a core agency such as police or social work, their concerns that they believe or suspect a child has or will suffer harm.

#### **A child**

A child can be defined differently in different legal contexts:

Section 93(2) (a) and (b) of the Children (Scotland) Act 1995 defines a child in relation to the powers and duties of the local authority. Young people between the age of 16 and 18 who are still subject to a supervision requirement by a Children's Hearing can be viewed as a child. Young people over the age of 16 may still require intervention to protect them.

The United Nations Convention on the Rights of the Child applies to anyone under the age of 18. However, Article 1 states that this is the case unless majority is attained earlier under the law applicable to the child.

The Children and Young People (Scotland) Act 2014 defines a child for the purposes of all Parts of that Act, as someone who has not attained the age of 18.

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

The National Guidance for Child Protection in Scotland (2010) states the priority is to ensure that a vulnerable young person who is, or may be, at risk of significant harm

is offered support and protection. The individual young person's circumstances and age will, by default, dictate what legal measures can be applied. For example, the Adult Support and Protection (Scotland) Act 2007 can be applied to over 16's where the criteria are met.

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

### **Parents/Carers**

A 'parent' is defined as someone who is the genetic or adoptive mother or father of the child. A child may also have a parent by virtue of provisions in the Human Fertilisation and Embryology Act 2008. A mother has full parental rights and responsibilities. A father has parental rights and responsibilities if he is or was married to the mother at the time of the child's conception or subsequently, or if the child's birth has been registered after 4 May 2006 and he has been registered as the father of the child on the child's birth certificate. A father or, where relevant, a second female parent by virtue of the Human Fertilisation and Embryology Act 2008 may also acquire parental responsibilities or rights under the Children (Scotland) Act 1995 by entering into a formal agreement with the mother or by making an application to the courts.

A carer is someone other than a parent who has rights and responsibilities for looking after a child or young person.

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

Before making such a decision the authority must, so far as reasonably practicable, obtain and record in writing the information specified in Schedule 3 to the 2009 Regulations and, taking into account that information, carry out an assessment of that person's suitability to care for the child.

### **Abuse**

Abuse and neglect are forms of maltreatment of children and young people. Abuse can take many forms and occurs in many places, and all suspicions of abuse must be dealt with as a child protection matter. Part 4 of the National Guidance for Child Protection in Scotland (2014) provides valuable information about child protection in specific circumstances and it is recommended that Safeguarders access this resource.

To define an act as abusive and/or presenting future risk either by commission or omission, a number of factors must be considered including whether this is an act that could have been avoided by the parent's action or inaction.

### **Physical abuse**

Physical abuse is the causing of physical harm to a child or young person and may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning or suffocating. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes, ill health to a child they are looking after. For further information, see the section on fabricated or induced illness in national child protection guidelines.

### **Emotional abuse**

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

### **Sexual abuse**

Sexual abuse is any act that involves the child in any activity for the sexual gratification of another person, whether or not it is claimed that the child either consented or assented. Sexual abuse involves forcing or enticing a child to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non-penetrative acts.

They may include non-contact activities, such as involving children in looking at, or in the production of, pornographic material or in watching sexual activities, using sexual language towards a child, or encouraging children to behave in sexually inappropriate ways and child sexual exploitation.

### **Neglect**

Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the serious impairment of the child's health or development. It may involve a parent or carer failing to provide adequate food, shelter and clothing, to protect a child from physical harm or danger, or to ensure access to appropriate medical care or treatment. It may also include neglect of, or failure to respond to, a child's basic emotional needs. Neglect may also result in the child being diagnosed as suffering from 'non-organic failure to thrive', where they have significantly failed to reach normal weight and growth or development milestones, and where physical and genetic reasons have been medically eliminated.

In its extreme form, children can be at serious risk from the effects of malnutrition or lack of nurturing and stimulation. This can lead to serious long term physical abuse.

## **Significant harm**

Significant harm is a complex matter and subject to professional judgement based on a multi-agency assessment of the circumstances of the child and their family to which a Safeguarder may contribute. There is not an expectation that a Safeguarder will make decisions regarding significant harm, however it is helpful to understand how it is defined. The national guidance suggests that it is helpful to consider the following:

- ‘Harm’ means the ill treatment or the impairment of the health or development of the child, including, for example, impairment suffered as a result of seeing or hearing the ill treatment of another. In this context, ‘development’ can mean physical, intellectual, emotional, social or behavioural development and “health” can mean physical or mental health.
- Whether the harm suffered, or likely to be suffered, by a child or young person is ‘significant’ is determined by comparing the child’s health and development with what might be reasonably expected of a similar child.
- There are no absolute criteria for judging what constitutes significant harm. In assessing the severity of ill treatment or future ill treatment, professionals will take account of:
  - the degree and extent of physical harm
  - the duration and frequency of abuse and neglect
  - the presence or degree of threat, coercion, sadism and bizarre or unusual elements to take account of:
- Sometimes, a single traumatic event may constitute significant harm, for example, a violent assault, suffocation or poisoning. More often, significant harm results from an accumulation of significant events, both acute and long-standing, that interrupt, change or damage the child’s physical and psychological development. It is essential that when considering the presence or likelihood of significant harm that the impact (or potential impact) on the child takes priority, and not simply the alleged abusive behaviour.

The expectation is that Safeguarders will share worries and concerns in a timely fashion and should adhere to the principles of Getting it Right for Every Child (GIRFEC) which:

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

## **Assessing the vulnerability of a child or young person**

Vulnerability is contextual, and must be considered alongside the child’s age and stage of development, and be proportionate to the strengths present. There are factors that will make a child vulnerable or more vulnerable and these must be balanced with the protective factors and strengths available. In these situations Safeguarders must discuss the concerns and significant changes for a vulnerable

child with social work staff or Safeguarders Panel staff. Tools such as the checklist in the [National Risk Assessment Framework](#) may be helpful. Given the access to previous information, Safeguarders may be well placed to consider themes or patterns of behaviours or circumstances that may indicate escalating concern, or clusters of indicators that can significantly increase risk of harm or neglect.

### **Indicators of risk of harm**

Part 4 of the [National Guidance for Child Protection in Scotland \(2014\)](#) provides very valuable information about child protection in specific circumstances and it is recommended that Safeguarders make reference to this resource.

Some of the risk factors that children may have experienced are outlined below and it is important to consider the interaction between a number of risk factors, often occurring together, and the impact on the experiences of children.

### **Domestic abuse**

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

Domestic abuse should always flag up the vulnerability of the child as a victim as well as the adult being abused. This can impact the child directly through being involved in physical assaults or witnessing or hearing these. The threat of violence must also be recognised as a source of significant harm to children and young people and the risk should be understood as primarily due to the adult who is choosing to use violence or threat, rather than that of the non-abusing carer's failure to protect. Every effort should be made to work with the non-abusing parent/carer to ensure adequate and appropriate support and protection is in place to enable them to make choices that are safe for them and the child. However it is complex, if the non-abusive parent/carer is not safe, it is unlikely that the children will be. Indeed, children frequently come to the attention of practitioners when the severity and length of exposure to abuse has compromised the non-abusing parent's/carer's ability to nurture and care for them. The guiding principle is that if an adult is capable of violence to a partner, this should be actively considered as an indicator of risk of significant harm to the child/children. Any contact between a child and abusive adult should be subject to rigorous risk assessment.

### **Parental problematic alcohol and drug misuse**

Problematic parental substance use can involve alcohol and/or drug use (including prescription as well as illegal drugs). Not all parents who use substances experience difficulties with family life, and equally not all children exposed to substance use in the home are adversely affected in the short or long term. However, the risks to and impacts on children of parents and carers who use alcohol and drugs are known and

well-researched. Alcohol and/or drug use during pregnancy can have significant health impacts on the unborn child. Problematic parental alcohol and/or drug use can also result in sustained abuse, neglect, maltreatment, behavioural problems, disruption in primary care-giving, social isolation and stigma of children. Parents and carers with drug and/ or alcohol problems often lack the ability to provide structure or discipline in family life. Poor parenting can impede child development through poor attachment and the long-term effects of maltreatment can be complex. The capability of parents/carers to be consistent, warm and emotionally responsive to their children can be undermined by their alcohol or drug misuse and associated lifestyle choices.

Some of the impacts on children and families might be diminished by other protective factors or strengths. Resilience is described as a process of interaction between the individual and the life around them, however resilience may not always be positive and we need to guard against the view that resilience will protect. It may do, along with other protective factors, but it may also mask the 'hidden' needs of such resilient children.

A child or young person living with a parent or carer with alcohol or drug misuse issues should be considered as a child that may be at risk of significant harm. This is particularly but not exclusively relevant when the child is unborn and children are in the early years of their development.

### **Previous abuse of a child**

Any previous incidence of abuse to a child in the current household or previous households by the parent or carer must be fully considered and never ignored. Where there is information that an adult having care of or contact with a child has a history of any type of harm to a child however historical this is, must be actively considered as relevant information to any current risk assessment of a child or children in their current or future care.

A child who has been previously subject to harm is at a greater level of risk of future harm and this should be considered by professionals as a factor in any current risk assessment.

### **Non engaging families**

Evidence shows that some adults will deliberately evade practitioner interventions aimed at protecting a child. In many cases of child abuse and neglect this is a clear and deliberate strategy adopted by one or more of the adults with responsibility for the care of a child. Parents and carers may behave in a negative and hostile way towards practitioners.

The terms 'non engagement' and 'non compliance' are used to describe a range of deliberate behaviour and attitudes, such as:

- Failure to enable necessary contact (for example missed appointments) or refusing to allow access to the child or home.
- Active non compliance with actions set out in the child's plan.
- Disguised non compliance, where the parent/carers appears to cooperate without actually carrying out actions or enabling them to be effective.

- Threats of violence or other intimidation towards practitioners.

When there has been a lack of contact or engagement with a child or family where there is a compulsory order, the named person or lead professional must be advised without delay so that the Children's Reporter can be advised immediately. A lack of engagement when there are risk factors present should never be ignored or allowed to drift.

### **Disability**

Scottish Government have produced [additional notes for protecting disabled children from abuse and neglect \(2014\)](#).

Disabled children are vulnerable to the same types of abuse as their able bodied peers, and studies show they are 3 to 4 times more likely to be subject to abuse. Neglect and emotional abuse is the most frequently reported form of abuse of disabled children and young people. Disabled children are more likely to require intimate support and have difficulties with cognitive abilities, communication and mobility etc., which can increase their vulnerability. Children with disabilities may also be at greater risk of sexual abuse which may be more difficult to detect due to the child's lack of communication, and they can often be exposed to numerous carers for intimate care. The parents and carers of children with disabilities and complex needs can often be under increased levels of stress, and all these factors may lead to increased levels of risk which professionals must remain vigilant to and be mindful that abuse of disabled children is significantly under-reported.

### **Child/young person's mental health**

Children and young people with mental health issues may be at risk to themselves or to others. This should not be seen as only the responsibility of mental health services but of all agencies. This can cause children and young people to be at greater risk of significant harm. Professionals must be vigilant to the mental health of children and young people and particularly signs of self-harming, para suicide or attempted suicide, and work with other professionals to ensure coordinated support and services are in place and communication links are strong.

### **Parent's mental health**

It is not inevitable that a child of a parent with mental health issues will be at risk of significant harm. However, the mental health issues of the parent may impact on the care environment or make the child more vulnerable. The child's needs should always be considered as a priority.

### **Children and young people's harmful sexual behaviour**

Young people show a wide range of diverse sexual behaviours and broader developmental issues must be considered alongside the age of those involved; age difference; behaviours; level of force or threat etc. In all cases where a young person displays problematic sexual behaviour this needs to be immediately considered as a child protection concern and shared with the lead professional or core agencies. This harmful behaviour can take many forms - it may be threatening behaviour, verbal and actions, or texting, messaging etc., with a sexual content, or inappropriate touching of themselves or others. This may be a single incident or patterns of incidents or behaviours. Professionals need to report such behaviours or concerns to the lead professional manager to inform discussions of what action is required in terms of

support to young people, and safety planning within the service or formal child protection processes.

### **Honour based violence**

This is a spectrum of criminal threat and violence and can include killing. Such violence occurs when it has been considered that a child or young person has brought shame on a family. Honour based violence and forced marriages should result in a child protection process being initiated without delay by referring to core agencies such as social work and police. Care must be taken not to increase the risk to the child or young person by the nature of the intervention.

### **Female genital mutilation**

This is a culture specific act that occurs in certain communities. This should always be referred immediately as a child protection concern to core agencies. It is deeply rooted in some Asian, African and Middle Eastern communities and this must be borne in mind. Other factors such as forced marriage and child trafficking should be considered when this indicator is suspected or evidenced.

### **Fabricated or induced illness**

This can include when a parent or carer fabricates symptoms of a child's illness, fabrication of medical notes or inducement of illness. Whilst uncommon, when it is suspected this must involve a careful analysis of information by health and other disciplines to reach the fullest understanding of the child's symptoms and diagnosis.

### **Sudden unexpected death in infants and children**

Only a small number of children die in infancy in Scotland. Most deaths are due to natural causes but a small number are due to neglect, assault, malicious administration of substance or lack of vigilance with substances. Public authorities have a duty to investigate suspicious deaths. The police have a key role in this and their primary responsibility is to the child and any other children present currently or in the future.

### **Harm outside the home or other circumstances**

Complex abuse investigations may involve families or family networks. This can also be in relation to harm of children and young people in residential settings, educational settings, sports clubs etc. If Safeguarders are made aware of any concerns of this nature they must immediately pass this to core agencies as these matters require comprehensive planning between a number of agencies and disciplines.

### **Ritual abuse**

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

### **Networks of abuse**

Several high profile cases – including Cleveland (1987); Orkney (1991) & Operation Yewtree (2014) – and investigations within residential schools and care homes have highlighted the complexities involved in investigating alleged organised abuse and supporting children. Complex cases in which a number of children are abused by the same perpetrator or multiple perpetrators may involve the following:

- Networks based on family or community links. Abuse can involve groups of adults within a family or a group of families, friends, neighbours and/or other social networks who act together to abuse children either directly or online.
- Child abduction may involve internal or external child trafficking and may happen for a number of reasons. Children cannot consent to abduction or trafficking.
- Abuse can involve children in an institutional setting (for example, youth organisations, educational establishments and residential homes) or looked after children living away from home being abused by one or more perpetrators, including other young people.
- In some cases, children may be recruited or abducted for commercial child sexual exploitation.

In all cases where a child, young person or indeed an adult who reports current or historic abuse which would suggest a child may be at current or future risk of harm, information must be passed to core agencies without delay.

### **Historical abuse**

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

Individuals may disclose historical abuse in the context of an interview with a Safeguarder. When an allegation of historical child abuse is received by a Safeguarder, they must pass this information on to the lead professional or social work as consideration needs to be given to the investigation of any current child protection concerns. This should include determining whether there are any children potentially still at risk from the alleged perpetrator(s). This may be in a professional capacity such as in a residential or foster care setting, within a personal family setting in the wider community, within other institutional settings or a combination of these.

### **Child trafficking**

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

countries and Safeguarders should be aware that this does occur in Scotland's towns and cities.

Forms of exploitation of child victims of trafficking include:

- child labour, for example - on cannabis farms
- debt bondage
- domestic servitude
- begging
- benefit fraud
- drug trafficking/decoys
- illegal adoptions
- forced/illegal marriage
- sexual abuse
- sexual exploitation

It is essential to take timely and decisive action where child trafficking is suspected because of the high risk of the child being moved. Action should not be postponed until a child realises, agrees or divulges that they have been trafficked. Often children are threatened with punishment if they speak and also they may not be aware that they are victims of trafficking. Safeguarders should pass on any such concern or indicators to police and local social work immediately and follow any local procedures that are in place.

In cases where a child may have been trafficked, their carer may be involved in the trafficking or exploitation. Seeking their consent could put the child at further risk or lead to their being moved elsewhere. Unless there is clear evidence that seeking consent would in no way harm the child, referring agencies should not seek the carer's consent. This must be discussed with a lead professional as a matter of urgency.

### **Child Sexual Exploitation**

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

In all cases those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources. Violence, coercion and intimidation are often common features; involvement in exploitative relationships being characterized in the main by the child/ young person's limited availability of choice resulting from their social, economic and/or emotional

vulnerability. In some cases, the sexual activity may just take place between one young person and the perpetrator (whether an adult or peer). In other situations a young person may be passed for sex between two or more perpetrators or this may be organised exploitation (often by criminal gangs or organised groups). Sexual exploitation is abuse and should be treated accordingly and Safeguarders should follow local child protection procedures by alerting the lead professionals to concerns in a timely fashion.

### **Children who are looked after away from home**

A looked after child may be placed with kinship carers, foster carers or in a residential setting school, young people's unit or respite care service. The potential to abuse a position of trust may increase when children and carers are living together and sharing a home. Whatever the case, the main consideration in responding to any concern must be the safety of the child. Any looked after child voicing a concern must be listened to and taken seriously, and equally, the carers should be treated with respect and their views also taken seriously.

### **Online and mobile phone child safety**

New technologies, digital media and the internet are an integral and positive part of children's lives, but these new technologies potentially bring a variety of risks, such as:

- exposure to obscene, violent or distressing material
- bullying or intimidation through email and online (cyber-bullying)
- identity theft and abuse of personal information
- exploitation by online predators – for example, sexual grooming – often through social networking sites

Safeguarders should be vigilant to children being harmed in this way, and where appropriate seek advice and refer to Social Work Services or Police Scotland.  
<http://ceop.police.uk/>

### **Vulnerable children and young people and risk taking behaviour**

Some children and young people are vulnerable for various reasons, and due to their circumstances previously or currently, will seek to deal with this by placing themselves at risk of significant harm from their own behaviour. Concerns about these children and young people are as significant as concerns relating to children who are at risk because of their care environment or parenting. The main difference is the source of risk, though it should be recognised that at least some of the negative behaviour may stem from experiences of past or current abuse or trauma. While not exhaustive, the following lists the different types of concern that may arise:

- self-harm and/or suicide attempts
- alcohol and/or drug misuse
- running away/going missing
- inappropriate sexual behaviour or relationships
- sexual exploitation

- problematic or harmful sexual behaviour
- violent behaviour
- criminal activity

Each of these concerns must be assessed in the context of each young person, and Safeguarders must liaise closely with lead professionals and core agencies as any one or a combination of these concerns could be placing a child or young person in very unsafe situations.

### **Children and young people who are missing**

This can be children (even unborn) who are missing from services such as health, social work, or education. This can also be a young person missing from their care placement or ejected from their family home. This can also be a child or young person who is staying away from their family home on purpose, sleeping rough or with a friend. This does not require to be overnight. The young person may not have said they are running away and may not be reported missing. Any child under 16 who is absent from their domicile without the reasonable authority of those responsible for them or in charge of them should be considered as missing and reported as such to the police. If it is suspected a child has been taken by a third party this must be referred to police and social work immediately. Safeguarders who are aware of any information regarding a child going missing, or indeed information regarding their whereabouts should pass this immediately to social work and police.

### **Underage sexual activity**

Young people who are sexually active under the age of 16 have diverse needs and there needs to be a diverse response. Whilst young people need freedom to make decisions this must be balanced with the risk that they may be harmed.

The law is clear that the age of consent to sexual intercourse is 16 years of age. For Safeguarders child protection measures must be instigated:

- if the child is, or is believed to be, sexually active and is 12 or under
- if the young person is currently 13 or over but sexual activity took place when they were 12 or under; and where the other person is in a position of trust in relation to the young person
- where force, coercion or threat has been used
- when there is a significant age or power differential between those involved

Staff should also refer directly to local multi-agency procedures and any local protocols in place. Following this being passed to social work, it may be decided that there are no child protection concerns but there is a need for support or other services.

### **Bullying**

Bullying behaviour may include:

- name-calling, teasing, putting down or threatening
- ignoring, leaving out or spreading rumours

- physical assault
- stealing and damaging belongings
- sending abusive text, email or instant messages
- making people feel like they are being bullied or fearful of being bullied
- targeting someone because of who they are or are perceived to be

Such behaviour can leave people feeling helpless, frightened, anxious, depressed or humiliated and can have a devastating and lifelong impact. Bullying behaviour can take place in schools, children's services, residential services, at home and in the community; at youth groups and out-of-school care and can come from both children and adults. It is also increasingly associated with the use of the internet and mobile phone technologies, especially via social networking sites such as Facebook (so called 'cyber-bullying').

Given the impact this can have on children and young people, such concerns must be acted upon by immediately passing this to a lead or named professional for an assessment of risk to the child, and decision about how best to reduce any risks.

## Relevant Legislation

### Duties to protect

#### [Police and Fire Reform \(Scotland\) Act 2012](#)

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

- Prevent and detect crime
- Maintain order
- Protect life and property

To take such lawful measures and make such reports to the appropriate prosecutor as maybe needed to bring offenders with all due speed to justice"

#### [Children \(Scotland\) Act 1995](#)

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

#### [Social Work \(Scotland\) Act 1968](#)

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

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

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

#### [Local Government in Scotland Act 2003](#)

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

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

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

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

[Education \(Additional Support for Learning\) \(Scotland\) 2004](#) as amended under section 4 of the 2004 Act, where a local authority has responsibility for the child's or young person's education, and it has been established that the child or young person has additional support needs, the authority has a **duty** to provide such support as is necessary to help them benefit from school education. Under section 9 of the 2004 Act, where a local education authority has responsibility for the child's or young person's education and it has been established that the child or young person requires a co-ordinated support plan, the education authority has a **duty** to provide a co-ordinated support plan for the child.

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

Some of the provisions in this Act will not be implemented until August 2016; however it is a significant piece of legislation about children's rights and services and practitioners should be aware of its existence. The Act contains provisions about:

- the rights of children and young people;
- investigations by the Commissioner for Children and Young People in Scotland;
- the provision of services and support for or in relation to children and young people;
- the statutory operation of the Named Person and Child's Plan;
- the extension of early learning and childcare;
- the role of 'corporate parents';
- the extension of aftercare support to young people leaving care (up to and including the age of 25);
- entitling 16 year olds in foster, kinship or residential care the right to stay in care until they are 21;
- support for kinship care;
- the creation of an adoption register;
- consultation on certain school closure proposals;
- some amendments to children's hearings legislation;
- appeals against detention in secure accommodation; and the provision of free school lunches.

### [Data Protection Act 1998](#)

The basic principles of the Act remain relevant in terms of the conditions in which any data can be "processed" and it is the responsibility of the data controller within any organisation to ensure that the key principles set out in the Act are adhered to by all staff. Of particular note in the child protection context are those sections of the Act that relate to confidentiality, sharing of information and disclosure of sensitive information.

### Human Rights Act 1998

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

### UN Convention on the Rights of the Child

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

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

Ratified by the UK Government in 2009, the Convention stipulates that in order for disabled children to be able to realise the rights mentioned above, they need to be provided with disability and age-appropriate assistance

## Policy context

These procedures and the national Guidelines have been created in the context of the following:

United Nations Convention on the Rights of the Child

<http://www.unicef.org.uk/UNICEFs-Work/Our-mission/UN-Convention/>

Protecting Children and Young People: The Charter (Scottish Executive 2004)

<http://www.scotland.gov.uk/Publications/2004/04/19082/34410>

The Children (Scotland) Act 1995 and other relevant legislation

<http://www.legislation.gov.uk/ukpga/1995/36/contents>

National Guidance for Child Protection in Scotland (Scottish Government 2014)

<http://www.scotland.gov.uk/Publications/2010/12/09134441/0>

Getting it right for every child (GIRFEC)

<http://www.scotland.gov.uk/Topics/People/Young-People/gettingitright>

Getting Our Priorities Right (Scottish Government)

<http://www.scotland.gov.uk/Publications/2013/04/2305>

The Common Core of Skills

<http://www.scotland.gov.uk/Publications/2012/06/5565>