

JSP 834 PART 1: General

Section 1 – Instructions for Using this JSP

1.1.1. This JSP is in three main parts with part four being a glossary:

1. General Guidance
2. MOD Responsibilities Overseas
3. Children in Specific Circumstances

1.1.2. When reading this JSP it is important to note that the word ‘must’ is used to denote requirements mandated by law in England and Wales, the word ‘should’ is used to reflect requirements mandated by policy and the word ‘may’ provides discretion for the interpretation of policy.

1.1.3. Where the word “professional” appears, it applies to all staff employed to implement safeguarding procedures and practices whether they are MOD Service and civilian personnel, single Service welfare staff, Unit Welfare Officers (UWO), organisations and agencies such as SSAFA FH, and the British Forces Social Work Services (BFSWS), Service Children’s Education (SCE) staff, Children’s Education Advisory Service (CEAS) staff, Service police and health workers.

1.1.4. This document cannot be totally comprehensive and, if there is any doubt, advice should always be sought from the Director CYP, Single Service Specialist Welfare Services, and/or the MOD approved social care provider’s named lead for Social Care Services, Director Social Work SSAFA FH or departmental legal advisers.

1.1.5. Further guidance in all areas of safeguarding can be sought from, ‘Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children’ (WTSC) published by DCSF in 2010 – which can be found at www.education.gov.uk.

1.1.6. Working Together to Safeguard Children is currently under review, following the Munro recommendations, and a much shorter version will be published shortly. The much wider guidance available in the 2010 document should continue to be followed until it is formally withdrawn by the DfE.

1.1.7. (This JSP should be read in conjunction with JSP 893 and DIN 2011DIN01-233 Policy on the Care of Service Personnel Under the Age of 18)

Section 2 – Aim

1.2.1. The aim of this JSP is to deliver the MOD Safeguarding Children and Young People policy. It will direct and provide guidance to Commands, Formations, Garrisons/Ships/Stations, Commander and Commanding Officers (COs) at all levels, the MOD sponsored Cadet Forces, MOD training establishments, Education, Social Service, Welfare and Medical staffs and the Children’s Workforce for safeguarding children in the Service community both in the UK, where LAs provide most of the services, and overseas where MOD usually takes responsibility in the absence of a LA.

1.2.2. The MOD has, or has assumed, a duty to ensure that safeguarding and child protection procedures are in place, wherever there are children of Service personnel, UK based Crown

Servants or contractors who are subject to Service law while working overseas or any child who is staying, for however short a time, with such families.

1.2.3. In overseas areas, so far as is permitted by international and local law, the MOD has determined, as a matter of policy, to assume responsibility for the safeguarding of children of members of the British Forces community. In doing this, the MOD, through its overseas Commands, takes on a role similar to that of a LA in the UK and, wherever possible, operates in accordance with the provisions of UK statutes and UK government policy, even though the statutes generally do not apply as a matter of law.

1.2.4. British Forces Community: It is difficult to more clearly define what constitutes the British Forces community overseas without the risk of excluding some children from that definition. This JSP has deliberately taken a wide approach to which children fall within the scope of these procedures (4.1.2) in order to ensure that the risk of children falling through the net is reduced. There needs to be a degree of local interpretation and flexibility in order to ensure that local circumstances and structures are taken into account. Where possible these structural differences should be included in local policies and procedures, as set out at 2.1.1.

1.2.5. On the very few occasions where there is doubt about jurisdiction steps should always be taken in the first instance to protect children. Attempts should then be made at a local level to clarify jurisdiction, using whatever local safeguarding systems, Local Safeguarding Childrens Board (LSCBs etc) are in place. If a solution is not forthcoming then advice should be sought from DCYP who will, where necessary seek legal advice, and will attempt to resolve the issue as quickly as possible.

1.2.6. This JSP adopts a tri-Service approach, incorporates the principles of extant and emerging legislation, delivers best practice and uses common definitions throughout. The principles and policies are applicable across the Services and this is reflected in this publication.

1.2.7. All staff must have a commitment to safeguard and promote the welfare of children. Single Service welfare staff, unit welfare staff, and any other relevant organisations/agencies must have a clear statement of responsibility towards children. It must be available for and understood by all staff with a clear line of accountability for safeguarding, promoting the welfare of children and child protection.

1.2.8. The Services must have a clear commitment to ensure that there is training and information on safeguarding for all staff involved with children, including volunteers. Section 8 of Part 1 of this JSP provides more information on training.

1.2.9. All COs are to ensure that all organisations/ agencies accept responsibility for having safe recruitment procedures in place that follow the principles in the Safeguarding Vulnerable Groups Act 2006, The Protection of Freedoms Act 2012 and the Safeguarding Children and Safer Recruitment in Education guidance ².

1.2.10. It is the duty of all organisations/agencies to ensure there is effective inter-agency working to safeguard and promote the welfare of children, through applying the “duty to co-operate”, and that they have effective systems in place for sharing information.

1.2.11. All Commands, including those classed as Isolated Detachments³ (ISODETS), need to be prepared, and have appropriate procedures and protocols in place, to deal with all aspects of

² <http://www.education.gov.uk/consultations/downloadableDocs/Safeguarding%20Children%20Guidance.pdf>

safeguarding and promoting the welfare of children, accessing assistance and expertise from the Single Service Specialist Welfare Providers and the MOD contracted Social Work and Health Provider, currently Soldiers, Sailors, Airmen and Families Association Forces Help (SSAFA FH). Contact details can be found at Annex C to this part of the JSP.

1.2.12. International agreements must be complied with and reflect command procedures where appropriate. No special administrative arrangements relating to safeguarding should be made with host nation authorities without the prior approval of the MOD Children's Board. Such arrangements should reflect the safeguarding procedures set out by the LSCB, and must also be monitored regularly by the LSCB (through the social work service provider where appropriate).

1.2.13. All Social Care and Welfare Workers, all SCE staff and all MOD health, education and police staff must also abide by their own Codes of Practice when implementing this policy.

Section 3 – Introduction to Safeguarding

Supersedes DCI 140/2001 Protection of Children

1.3.1. The introduction of the Children Act 2004 (CA04) in England led to significant change in the way in which the safeguarding of children and young adults is delivered. The Act defines a child as "a person under the age of 18". Section 11 of the Act places a duty on key people and bodies to make arrangements to ensure that, in discharging their functions, they have regard to the need to safeguard and promote the welfare of children and young people. Within the MOD this duty is therefore taken to include all people under the age of 18. If Commands, Units and COs are unsure about their duty then they should clarify this with their single service welfare provider. If further clarification is needed then DCYP should be contacted.

1.3.3. In England and Wales⁴ statutory responsibility for safeguarding and promoting the welfare and wellbeing of children rests with Local Authorities (LAs). In Scotland this falls to the Social Work Department and in Northern Ireland to the Health and Social Care Trusts.

1.3.4. In discharging this policy, the MOD is able to rely on the provisions of the Armed Forces Act 1991 (as amended by the AFA 06) which provides powers to Judge Advocates to make Assessment and Emergency Protection Orders for children, and which also grants to the service police general powers of protection similar to those available to the civilian police under the Children Act 1989.

1.3.5. Much of the policy in this JSP is taken from WTSC 'Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children' (DCSF, 2010). This is in order to ensure that MOD policy aligns as closely as possible to practice in England and Wales.

1.3.6. A useful web based guide to WTSC can be found at <http://www.workingtogetheronline.co.uk/>

1.3.7. For Service children⁵ living in the UK, the designated LA or Devolved Administrations (DA) equivalent will take the lead and apply the safeguarding practice/policy as set out in regulations but will where appropriate involve appropriately trained/qualified MOD/Service personnel in the LSCB arrangements.

⁴ Devolved Administrations have similar procedures in place.

1.3.9. The MOD has created the Directorate Children and Young People (DCYP) under the 2-star Director Children and Young People. Director CYP is responsible for providing the professional leadership and direction across the MOD for the development and implementation of children and young people's services.

1.3.10. Director CYP is supported in this role by an Assistant Director, Safeguarding, who is a qualified social worker, the single Service leads for social work and the Director SSAFA social care who provide the statutory social care function overseas. Director CYP receives independent advice from the Chair of the MOD Safeguarding Children Board.

1.3.12. These guidelines are also applicable to Service Personnel undergoing phase 1 and phase 2 training (and RAF / Navy equivalents) in training establishments; for example, but not exclusively, ARTD Initial Training Group and Infantry Training Centre Catterick.

1.3.13. MOD policy in relation to employment checks to aid safeguarding of children, for people employed in regulated activity, who are part of or associated with the MOD community (including Regular and Reserve Service personnel, MOD civilian personnel and personnel involved with MOD sponsored Cadet Forces) is set out in JSP 893.

Section 4 – Outcomes, Definitions and Duties

1.4.1. CA04 sets out five outcomes that are key to the wellbeing of children and young people, the five outcomes are:

- a. **Stay Safe:** being protected from harm and neglect.
- b. **Be Healthy:** enjoying good physical and mental health and living a healthy life style.
- c. **Enjoy and Achieve:** getting the most out of life and developing the skills for adulthood.
- d. **Make a Positive Contribution:** being involved with the community and society and not engaging in anti-social or offending behaviour.
- e. **Achieve Economic Well-Being:** not being prevented by economic disadvantage from achieving full potential in life.

1.4.2. The term “safeguarding and promoting the welfare of children” describe the duties and responsibilities that those providing health, social, and leisure or education services have to carry out or perform to protect children from harm. Safeguarding and promoting the welfare of children is defined as⁷:

- a. Protecting children from maltreatment.
- b. Preventing impairment of children's health or development.
- c. Ensuring that children are growing up in circumstances consistent with the provision of safe and effective care.
- d. Undertaking the role so as to enable those children to have optimum life chances and enter adulthood successfully.

⁵ A child is anyone who has not reached their 18th birthday. That fact that a child is living independently, is in further education, is a member of the Armed Forces, is in hospital, in prison or in a Young Offenders Institution, does not change his or her status, or entitlement to services, or protection under the CA89 and CA04.

1.4.3. The needs of the child are paramount and should underpin all child protection work and guidance relating to the safeguarding and wellbeing of children.

1.4.4. CA04 must be implemented across England and Wales by LAs and the principles of the CA04 should be implemented across the overseas Commands for all children's services so far as is possible having regard to international agreements and local law. Devolved Assemblies in Scotland and Northern Ireland have their own legislation that provides similar protection.

Section 5 – Roles and Responsibilities

1.5.1. In accordance with UK best practice and legislation every children's service that is provided by the MOD must ensure that it has its own procedures in place that detail the roles and responsibilities of all statutory and non-statutory organisations, agencies and the voluntary sector in safeguarding and promoting the wellbeing of children.

1.5.2. The Key agencies and professionals involved in safeguarding are Social Care Services, Health, Education and the Police. The lead role in safeguarding and child protection falls to the specialist Social Workers employed in the relevant LA or Devolved Administration in the UK who together with the Civil and Service police have access to legal powers to enable them to protect children if necessary.

1.5.4. The Adjutant General (AG), in his capacity as Lead Member of the MOD Children and Young People's Trust Board (CYPTB) is responsible for the safeguarding agenda, including where necessary child protection, for children within the MOD scope of responsibility. The Director CYP is responsible for providing the professional leadership and direction across the MOD for the development and implementation of children and young people's services.

1.5.5. The MOD CYPTB is responsible for providing strategic guidance and governance to the Commands and is supported by the MOD Safeguarding Children Board. The Terms of Reference (TOR) for the MOD CYPTB is at Part 1 Annex A. TOR for the MOD Safeguarding Children Board is at Part 1 Annex B.

1.5.7. For MOD Phase 1 and 2 Training Establishments the lead authority for tri-service policy is the Training, Education, Skills, Recruitment & Resettlement Division (TESRR) within DCDS (Pers & Trg). Delivery of the safeguarding agenda is achieved through the relevant Service Command and respective training Formation Headquarters.

1.5.8. COs in each Command⁸, are responsible for implementing the principles of "Working Together to Safeguard Children 2010" in the Command area working with the key agencies and organisations. How safeguarding is implemented in each area will depend on the number of children for whom the MOD has responsibility and whether children's services in that area are provided directly by the relevant UK LA or Devolved Administration in which the Command is based or, in relation to the overseas location, by MOD or through third party provider or contractor.

1.5.9. Each single Service has a responsibility to act on and implement the safeguarding procedures established for all MOD personnel. Where an assignment of a Service person would take a child subject to a child protection plan or to ongoing child protection procedures outside the UK, the single Service welfare services and the Director of Social Work SSAFA FH should always be consulted by the assigning authority before the assignment order is issued.

⁷ Department for Education "What is the difference between safeguarding and child protection" 10th February 2011

⁸ In this context Command refers to the Headquarters responsible for delivering infrastructure support and is not likely to be below 1*level.

1.5.10. The Armed Forces Act 1991 (as amended by the AFA 06) bestows upon Judge Advocates and the Service Police certain limited child protection powers on an extra-territorial (worldwide) basis. These are similar to the powers in s 43, 44 and 46 of the Children Act 1989 to allow for the emergency removal of a child to a place of safety. Judge Advocates are also able to make an order for the assessment of the child if this is required.

1.5.11. Management of Registered Sex Offenders. In the UK this responsibility is held by the police who operate the Sex Offenders' Register. Where this is a serving person that responsibility falls to the CO where that person is assigned overseas. The CO should inform the Social Work Service of a man/woman subject to being on the Sex Offenders' Register upon posting to an overseas post.

1.5.12. Serious Case Review, (SCR). Any serious child safeguarding incident overseas should always be reported to the LSCB within the Command and through the Chain of Command to the Director CYP, Director of Social Work SSAFA FH and the Independent Chair of the MOD SCB. Usually, such incidents will involve the death of a child (including death by suicide), serious injury to a child or permanent harm where abuse and/or neglect are known or suspected to be a factor in the child's death or injury and where lessons can be learnt about how agencies worked together to safeguard the child. Following the reporting of the incident a decision will be made about whether to conduct a Serious Case Review (SCR) or a Significant Case Evaluation (SCE).

Section 6 – Safeguarding responsibilities for the single Services

1.6.1. In the UK all child protection concerns and referrals must be made to the relevant LA Children's Social Care Team, or the relevant DA equivalent, which have the legal duties and responsibility for child protection. Military services may be involved but do not have the statutory duties of the LAs or DAs. Overseas the contracted Social Work Service holds this duty and responsibility for child protection on behalf of the command and the MOD. All child protection matters must be referred to the contracted social work service in command where one is in place or to the BFSWS in Germany via the Central Referral Team (CRT)⁹.

1.6.2. Each of the below must liaise with the appropriate LA and DA social services departments and the overseas contracted social work service provider in matters of safeguarding and child protection.

1.6.3. Royal Navy. All child protection matters within the Royal Navy should be referred to the Naval Personal and Family Service (NPFS), the Royal Navy's social work department. In England this is done through the local NPFS Area Officer¹⁰. NPFS will provide a confidential and professional social work service to all Naval personnel and their families. On all issues relating to safeguarding NPFS staff will liaise with the appropriate LA social services departments.

1.6.4. Royal Marines. Where the Service person is from the Royal Marines all safeguarding matters in England and Wales should be referred to the Royal Marines Welfare organisation (RMW). In Scotland, safeguarding matters should be referred to the NPFS/RMW Northern Area Officer in accordance with the National Guidance for Child Protection in Scotland 2010. RMW is staffed by trained qualified and unqualified Royal Marine SNCOs and social workers who are accountable to a qualified social work manager at Naval Command HQ. On all issues relating to safeguarding, RMW staff will liaise with the appropriate LA social services departments.

⁹ The Central Referral Team (CRT) is located in UKSC and depending where the incident took place may not be able to respond physically immediately but are available for telephone consultation 24/7. See also Annex G to Part 2

¹⁰ Contact details for the single Service social welfare services can be found at Annex C to Part 1.

1.6.5. Army. The Army Welfare Service (AWS) provides professional welfare support to Army personnel and their families. AWS is staffed by qualified civilian social workers and trained and supervised Army Welfare Workers. In the UK AWS also liaises with LAs where appropriate, particularly when a child is subject to child protection concerns. .

Royal Air Force. Welfare Support for families in the RAF is co-ordinated by the Station Personnel Officer, the Officer Commanding Personnel Management Squadron (OCPMS) or the Officer Commanding Base Support Wing (OC BSW), depending on the size of the Station/unit. SSAFA FH are contracted to provide a personal support and social work service for the RAF and must be informed of any RAF safeguarding and child protection concerns.

1.6.8. Training Establishments. Safeguarding matters for all MoD training establishments (Army, RAF and Navy) should be referred through the relevant training chain of command. Serious incidents, for example those which involve a police inquiry, should be discussed with the relevant single service specialist welfare provider, who will be able to advise about the involvement of local statutory agencies, such as Social Care or the LSCB.

1.6.9. Any serious safeguarding incident involving service personnel under 18 yrs which results in a SCR/SCE should be reported to DCYP and the MOD Safeguarding Children Board.

1.6.11. All child protection matters must be referred to the contracted social work service in command, where this is in place, or to the BFSWS in Germany (via the CRT) where no social work service is in place.

1.6.13. The Social Work Service is headed by Director of Operations Health & Social Care assisted by the Professional Head of Social Work based in central London. Specialist advice is provided and links to relevant LAs and the DA equivalents across the UK including some host nation statutory bodies are maintained.

Section 7 – Local Safeguarding Children Boards – General

1.7.1. A Local Safeguarding Children Board (LSCB) provides the necessary direction and operating framework, to ensure that all relevant organisations focus on their responsibilities with regard to the safeguarding of children and young people. The role of the LSCB is defined in Chapter 3 of “Working Together to Safeguard Children 2010”. Core objective and functions are at Annex D, however LSCB functions include:

- a. Developing policies and procedures for safeguarding and promoting the welfare of children.
 - b. Communicating and raising awareness.
 - c. Participating in planning and commissioning children’s services.
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- d. Collecting and analysing information about child deaths.
 - e. Undertaking serious case reviews and monitoring and evaluating the effectiveness of what is done.

1.7.2. In Scotland and Northern Ireland, legislation shares the same principles as CA04. The key local bodies in Scotland for developing and implementing the child protection strategy across agencies and between agencies are known as Child Protection Committees (CPCs). In Northern Ireland the key local body is known as the Safeguarding Board for Northern Ireland (SBNI) which is supported by a number of Safeguarding Panels.

1.7.3. Staff are instructed that the principles outlined henceforth will apply to both the LSCB and the DA equivalents as outlined above.

1.7.4. The LSCB is made up of senior managers from different services and agencies in the local area, including the independent and voluntary sectors. LSCBs in England and Wales and the DA equivalents **are expected to include MOD representatives wherever there is a significant Service population in that geographical area.**¹²

1.7.5. Each local commander should provide a representative for their local authority LSCB and DA equivalent. The representative should be at the appropriate level, and have sufficient knowledge and understanding of child protection and safeguarding (see para 1.7.7) together with the authority to make any decisions or recommendations to the LSCB and ensure that any actions or recommendations agreed by the LSCB that relate to the military community are carried out.

1.7.6. In some areas the representative may need to represent more than one service, for example the Army and RAF. Where this is the case the, the Commanders of the units will agree who will be the representative and how their reporting structures will work,

1.7.7. Where the representative does not have a background in or expertise in safeguarding, they should seek specialist advice from their single Service specialist welfare provider. The representative may be either a Service or civilian member of staff. In some cases it may be appropriate to have both a Service and a civilian member of the LSCB representing the Services. The Chair of the LSCB will make this decision.

1.7.8. The Service specialist welfare provider may advise the Local Commander/CO who to send to the LSCB as the Service representative. The Service representative must be Disclosure and Barring Service (DBS) checked and should be suitably experienced¹³ in child protection matters. In addition the representative should be trained in safeguarding, up to at least level three, and should complete update training every two years. This must be a permanent appointment for the duration of an assignment; it is not an ad hoc task. Commands in Wales should contact DCYP for the name of the contact details of their local LSCB Chairman.¹⁴ *The nominated MOD representative to a LSCB is expected to provide the DCYP with a brief annual report to include information as to how the LSCB provide the following:*

- *Specific Policies and Procedures to promote and safeguard the welfare of service children in their area.*
- *Communicate and raise awareness of the needs of service children in their area.*
 - *LSCB provision of Safeguarding Training to relevant MOD staff.*

1.7.9. Working Together to Safeguard Children states that where children are subject to safeguarding interventions it is within the remit of the LSCB to check the extent to which these interventions have been achieved. LSCBs may therefore seek information and assurance from MOD Commands and Units, including Cadets and Training Centres that are situated within the LSCB boundaries. All Commands and units are to cooperate fully with LSCBs in order to give them the information and assurance that they seek. Advice and support should be sought from the Service representative on the LSCB and the single Service welfare provider. Further advice and support can also be sought from DCYP where issues cannot be resolved at a local level.

¹² This commitment is endorsed by The Nation's Commitment: Cross Government Support to our Armed Forces, their families and Veterans, July 2008, which requires government departments to take account of the particular needs of Service Families.

¹³ e.g. minimum Tiers 1 & 2 safeguarding training from the LA. LSCBs may have additional requirements for members e.g. Tier 5, which is for senior managers.

Section 8 – Training and Development

1.8.1. All MOD personnel, organisations, and agencies who work with children regardless of the level of contact with children, are required to undertake appropriate safeguarding training. The document “Working Together to Safeguard Children 2010 *A guide to inter-agency working to safeguard and promote the welfare of children*”, Chapter 4, gives statutory guidance on this and advice on the appropriate level of training can be provided by the LSCB or the relevant Service agency providing the service.

1.8.2. The aim of the training is to:

- a. Improve inter-agency working in order to achieve better outcomes for children and young people.
- b. Develop a shared understanding of the tasks, processes, principles, and roles and responsibilities outlined in National Guidance¹⁵ and local arrangements for safeguarding children and promoting their welfare.
- c. Deliver more effective and integrated services at both the strategic and individual case level.
- d. Improved communication between professionals, including a common understanding of key terms, definitions and thresholds for action.
- e. Lead to effective working relationships, including an ability to work in multi-disciplinary groups or teams.
- f. Lead to sound decision-making, based on information sharing, through assessment, critical analysis and professional judgement.

1.8.3. There are six areas of expertise that everyone working with children, young people and families, including those who work as volunteers, should be able to demonstrate. These are:

- a. Effective communication and engagement with children, young people and their families and carers.
- b. Child and young person development.
- c. Safeguarding and promoting the welfare of the child.
- d. Supporting transition.
- e. Multi-agency working.
- f. Sharing information.

1.8.4. Commands should ensure that all staff¹⁶ that come into contact with children are familiar with the expected standards within these areas of expertise.

¹⁵ Working Together to Safeguard Children 2010

¹⁶ All staff are required to undertake some form of safeguarding training including clerical and domestic staff i.e. safeguarding induction (known as Level 1)

Section 9 – Access to Training in the UK and Overseas

1.9.4. In the UK, LSCBs (and their equivalent in the Devolved Administrations) provide safeguarding training programmes. Commands and Units should make use of this local training, in line with the guidance set out in Annex D to Part 2.

Section 10 – Safer Recruitment when working with Children and Young People

10.1. MOD policy relating to the Disclosure and Barring Service (DBS) and safeguarding arrangements for regulated activity relating both to children and adults is contained in JSP 893 (Policy on Safeguarding Vulnerable Groups). The Protection of Freedoms Act 2012 introduces a range of new measures that will effectively scale back the criminal records and barring systems to more proportionate levels of protection in those employment and volunteer areas that continue to need it. The changes are being introduced incrementally and 2012DIN01-197 provides notification of the first of these. This DIN should be read in conjunction with JSP 893 which will be amended to take account of the changes in due course.

10.2. It is imperative that Commands, Agencies and Units apply a rigorous professional approach to Safer Working Practice in order to mitigate risks to children and young people. Safer Working Practice guidance is available on the DfE website and further advice can be provided by DCYP.

Section 11 – Child Protection Procedures

1.11.1. All agencies who work directly with children and young people, including single Service welfare, health, education, police and social work staff, should have in place safeguarding / child protection procedures that provide advice and guidance on what should happen if someone has concerns about the welfare of a child or young person (including children living away from home) and in particular where there are concerns that a child may be suffering or may be at risk of suffering significant harm.

1.11.2. These staff should also be aware of JSP 913 Tri-Service Policy on Domestic Abuse and Sexual Violence which has relevance here.

1.11.3. All MOD personnel who work with or have contact with children¹⁷ and young people should be able to recognise and know how to act on evidence that a child's health or development is, or may be, being impaired. This is particularly necessary when a child is suffering, or is at risk of suffering, significant harm and they must be alert to possible indicators of abuse or neglect.

1.11.4. All agencies should be alert to the possibility that an individual may pose a risk of significant harm to a particular child, or to children in a local community. Employers of staff or volunteers who have substantial unsupervised access to children should guard against the potential for abuse, through rigorous selection processes following the safer recruitment JSP and Standing Orders, providing appropriate supervision and by taking steps to maintain a safe environment for children.

¹⁷ All professionals working with children, and especially those in health and social care, should be familiar with the core standards set out in the National Service Framework for Children, Young People and Maternity Services Core Standards and in particular Standard 5, 'Safeguarding and Promoting the Welfare of Children' (www.dh.gov.uk) and familiar with the Education Act 2002, Section 175 (www.education.gov.uk).

Section 12 - Actions for a Person Becoming Concerned about a Child¹⁸

1.12.1. All staff members who have, or become aware of, concerns about the welfare or safety of a child or children should always seek advice from the appropriate staff and Service providers and should know:

- a. Who to contact in what circumstances, and how.
- b. What services are available locally.
- c. How to gain access to local services.
- d. What sources of further advice and expertise are available.
- e. When and how to make a referral to LA children's social care or the equivalent social work service overseas.

1.12.2. Concerns should be discussed with a manager, or a named or designated health professional, single Service specialist welfare provider or a designated member of staff, depending on the organisational setting. If the child is considered to be, or may be, a child in need under the Children Act 1989, the child should be referred to LA children's social care or the relevant DA equivalent or contracted social work service for overseas. This includes a child who is believed to be, or may be at risk of, suffering significant harm.

1.12.3. There should always be the opportunity to discuss child welfare concerns with, and seek advice from, colleagues, managers, a designated or named professional, or other agencies. However, the concerned person should:

- a. Never delay emergency action to protect a child from harm.
- b. Always record in writing concerns about a child's welfare, including whether or not further action is taken.
- c. Always record in writing discussions about a child's welfare. At the close of a discussion, always reach a clear and explicit recorded agreement about who will take what action, or that no further action will be taken.

1.12.4. Where concerns are raised about a child and those concerns are referred to a statutory social work service that can take action to safeguard and promote the welfare of children, an initial assessment of the child's situation will be undertaken by that service. The outcome of the assessment will address the situation and indicate whether urgent action is required. The statutory organisation should hold a strategy discussion, and may then convene a child protection conference to enable a multi agency response to the child's needs.

Section 13 – Confidentiality and Sharing Information¹⁹

¹⁸ Each LSCB may have local procedures in place for responding to concerns about the safety of children.

¹⁹ https://www.education.gov.uk/publications/eOrderingDownload/Info-Sharing_legal-issues.pdf
<https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00807-2008#downloadableparts> Provides government advice on Information Sharing

1.13.1. The disclosure of personal or confidential information is governed by data protection legislation and by common law. In essence, this body of law attempts to ensure that such information is stored and disclosed in an appropriate manner having regard to the interests of the individual who is the subject of the information and the general public interest.

1.13.2. Whilst disclosure of personal or confidential information without the consent of the subject should be the exception rather than the rule, disclosure without consent is lawful in a number of circumstances, including where such disclosure is necessary in order to protect the vital interests of the subject. Each case, though, must be considered on its merits, and advice should be taken from departmental legal advisers as required.

1.13.3. The Data Protection Act 1998, and the Data Protection (Subject Access Modification) (Social Work) Order 2000 also regulate the extent to which an individual has the right to access personal information held by social work services. In essence, an individual will not have the right to access such information in circumstances where access would be likely to prejudice the carrying out of social work as it would be likely to cause serious harm to the physical or mental health or condition of the data subject or any other person.

1.13.4. There have also been a number of cases brought under the Human Rights Act in which the question of whether the restrictions on subject access to information held by social services amount to a breach of Article 8 of the European Convention on Human Rights – the right to respect for one’s family life, one’s home and correspondence. Under the Convention, any interference in this right by a public authority will only be justified if it is in accordance with the law and is necessary in a democratic country in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or the protection of the rights and freedoms of others. The indications from the British courts, though, have been that the regime set down under the DPA 1998, including the appeal process available, fulfil the obligations under Article 8. (The provisions of Article 8 may also be relevant to disclosure of personal information to third parties (see paragraphs 0192 and 0193), but, again, compliance with the UK statutory scheme should go a long way to protecting the department).

Section 14 – Allegations of Abuse made Against a Person Who Works With Children

1.14.1. Local Safeguarding Children Boards and Safeguarding Committees should ensure that all organisations who provide services for children, mandatory or voluntary, have in place procedures for managing and handling allegations against staff or volunteers. A sample policy is included at Annex E to Part 2 of this guidance. Further guidance can be found in Working Together to Safeguard Children 2010 (Appendix 5) and Safeguarding Children and Safer Recruitment in Education 2007.

1.14.2. Children can be subjected 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 accordingly.

1.14.3. The framework for managing cases (set out at Annex E to Part 2) applies to a wider range of allegations than those in which there is reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. It should be used in all cases in which it is alleged that a person who works with children has:

- 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

- behaved towards a child or children in a way that indicates s/he is unsuitable to work with children

1.14.4. LSCB / Safeguarding Committee member organisations should have a Named Senior Officer (NSO) who has overall responsibility for:

- ensuring that the organisation operates procedures for dealing with allegations in accordance with the guidance at Annex H
- Ensure that procedures are compliant with any local procedures
- resolving any inter-agency issues
- liaison with the LSCB

Section 15 – Care Leaver (CL) Joining the Services

1.15.1. Service Recruiting Organisations, where they are aware, are to notify Phase 1 Training Establishments of recruits joining the Services who are subject to the provisions of The Children (Leaving Care) Act 2000 (Care Leavers) when they enter Phase 1 Training. COs are to ensure that recruits notified as being Care Leavers (CL) at the start of Phase 1 training formally confirm whether they are or have been subject to a Care Order in order to enable the Training Unit to take account of their needs. This Act seeks to ensure that young people aged 16 years or over, who have had a significant period of being looked after by a LA, continue to receive advice, support and befriending for a period of time after they cease to be formally looked after full time by that LA. These CL may not have the family support that others enjoy and this may make them more vulnerable.²⁰

1.15.2. Whatever processes are put in place to meet the needs of CL, sensitivity is required to ensure they do not feel embarrassed or singled out from their peers. COs are to take the following action, seeking advice from their Service welfare provider and their Chain of Command if required:

- a. Ensure that all recruits at the start of Phase 1 training formally confirm whether they are or have been subject to a Care Order. With the specific agreement of the individual, that information is to be passed on to the Phase 2 establishment and in turn to their first Field Army unit.
- b. Notify the single Service specialist welfare provider of any CL. The single Service specialist welfare provider will assess the situation and, if requested by the recruit, the need for any welfare support and any appropriate involvement with the responsible LA. If the CL declines consent, the unit should seek generic advice about the needs of CL from the specialist welfare provider, without disclosing the identity of the individual. This will ensure that the unit obtains relevant knowledge in order to provide effective support to the CL. The unit and, if appropriate, the single Service specialist welfare provider should nominate a point of contact for a LA that wants to discuss issues relating to a specific CL.
- c. Allow access, if a CL asks for it, to the responsible LA's services to which the CL is entitled. The CL's military unit must facilitate this contact and access. As far as possible, the CL should not be disadvantaged by the inevitable moves that they will experience as a recruit.

²⁰ SSAFA has two leaflets: "Care Leavers and the Armed Forces". One is for Local Authorities and other is for Care Leavers in/or about to join the Armed Forces.

d. In recognising a LA's statutory responsibility to 'take reasonable steps' to keep in touch, or to re-establish contact if lost, with their CL (up to the age of 25), units are to effect a mail forwarding system for correspondence from LA to the individuals concerned. They are also to encourage CL to maintain contact with their responsible LA.

e. Where the LAs have a statutory requirement to carry out visits to CL on MOD property, units should offer every assistance to, and enable access, the LA whilst making it clear that the unit is not able to compel a CL to attend any such meetings or visits. Where an LA wishes to meet a CL on an MOD establishment and the CL indicates that they do not want to participate (potentially to avoid CL confidentiality being compromised with their peer group) the unit may also offer to facilitate a meeting between the CL/LA at an appropriate location and time that ensures that CL confidentiality is not compromised. This may for instance be in LA premises during leave. The LA care worker should be accorded the same access to the training establishment as would be given to the parents of other trainees.