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1. PURPOSE

This section of the Public Protection Manual gives statutory guidance for the Chief Executives and senior managers in all the bodies named in section 11 of the Children Act 2004. It enables them to carry out their responsibilities under section 11 of the Children Act 2004. All members of prison staff have a responsibility and the duty to safeguard and promote the welfare of children. This chapter focuses on:-

| Safeguarding Children is everyone’s responsibility |
| Improving Outcomes for Children and Young People |
| Understanding the Duty to Make Arrangements to Safeguard and Promote Welfare |
| Framework for making Effective Arrangements to Safeguard and promote Children’s Welfare |
| The role of the Police in relation to safeguarding children |
| The role of the Probation Service in relation to safeguarding children |
| Youth Offending Teams |
| The role of the Prisons in relation to safeguarding children |
| Domestic Violence, Crime And Victims Act 2004 |

SOURCE DOCUMENTS

| Statutory guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004 HM Government 2007 |
| Working Together to Safeguard Children. A guide to inter-agency working to safeguard and promote the welfare of children HM Government 2006 |

“The support and protection of children cannot be achieved by a single agency... Every Service has to play its part. All staff must have placed upon them the clear expectation that their primary responsibility is to the child and his or her family.”

Safeguarding children is everyone’s responsibility. This guidance deals with the duty to have regard to the need to safeguard and promote the welfare of children in the Children Act 2004. It plays an important role in embedding this responsibility in the work of key agencies which have contact with children and young people. The duty to make arrangements to safeguard and promote welfare is part of the comprehensive programme of Change for Children which began with the publication of the Every Child Matters Green Paper in September 2003. At the very heart of this programme is the recognition that protecting children from harm cannot be separated from policies to improve children’s lives as a whole.
2. IMPROVING OUTCOMES FOR CHILDREN AND YOUNG PERSONS

Achieving the shared vision of improving outcomes for children will require change throughout the system – a new relationship between Government and its partners, and between those partners, children, young people and their families and communities. The aim is to move to a position, both locally and nationally, where:

- The wellbeing of children and young people is at the heart of the Government’s policy for children and their families as set out in Every Child Matters: Change for Children (2004) and all key people and bodies are working towards shared outcomes;
- Clear overall accountability exists for services;
- Key local services are integrated, where appropriate, around the needs of children and young people, and children and young people are actively involved in developing and evaluating the services which are provided for them;
- Key people and bodies work well individually and together through universal, targeted and specialist services to safeguard and promote the welfare of children; and
- Children, young people and their families receive effective support earlier at the first sign of difficulties as part of the shift to strengthen preventative intervention.

3. UNDERSTANDING THE DUTY TO MAKE ARRANGEMENTS TO SAFEGUARD AND PROMOTE WELFARE

Section 11 of the Children Act 2004 places a duty on key people and bodies to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. The application of this duty will vary according to the nature of each agency and its functions.

The key people and bodies that are covered by the duty are:

- local authorities, including district councils;
- the police;
- the probation service;
- NHS bodies (Strategic Health Authorities, Designated Special Health Authorities, Primary Care Trusts, NHS trusts and NHS Foundation Trusts);
- Organisations (currently the Connexions Service) providing services under section 114 of the Learning and Skills Act 20007;
- Youth offending teams;
- Governors/ Directors of Prisons and Young Offender Institutions;
- Directors of Secure Training Centres;
- The British Transport Police.

Children are persons under the age of 18 (Section 65(1), Children Act 2004)

The section 11 duty means that these key people and bodies must make arrangements to ensure two things. Firstly, that their functions are discharged having regard to the need to safeguard and promote the welfare of children, and secondly, that the services they contract out to others are provided having regard to that need.

The duty does not give agencies any new functions, nor does it over-ride their existing functions. It, however, requires them to carry out their existing functions in a way that takes into account the need to safeguard and promote the welfare of children.
4. FRAMEWORK FOR MAKING EFFECTIVE ARRANGEMENTS TO SAFEGUARD AND PROMOTE CHILDREN’S WELFARE

Each agency will have different contributions to make towards safeguarding and promoting the welfare of children depending on the functions for which they have responsibility. For example, the main contribution of some services might be to identify and act on their concerns about the welfare of children with whom they come into contact, perhaps during or following completion of a common assessment while others might be more involved in supporting a child once concerns have been identified. However, there are some key features of effective arrangements to safeguard and promote the welfare of children which all agencies will need to take account of, in accordance with the relevant section in Part 2 of the guidance, when undertaking their particular functions. These arrangements will help agencies to create and maintain an organisational culture and ethos that reflects the importance of safeguarding and promoting the welfare of children.

Many organisations subject to the section 11 duty are also required to take part in Local Safeguarding Children Boards. They have shared responsibilities for the effective discharge of the LSCB’s functions. Other organisations can be involved in LSCBs by agreement. LSCBs are the key statutory mechanism for agreeing how the relevant organisations in each local area cooperate to safeguard and promote the welfare of children in that locality, and for ensuring the effectiveness of what they do.

The LA convenes and is also a member of the LSCB. Board partners set out in section 13(3) of the Children Act (2004):

- District councils in local government areas that have them;
- The chief police officer for a police area of which any part falls within the area of the LA;
- The local probation board for an area of which any part falls within the area of the LA;
- The Youth Offending Team for an area of which any part falls within the area of the LA;
- Strategic Health Authorities and Primary Care Trusts for an area of which any part falls within the area of the LA;
- NHS Trusts and NHS Foundation Trusts, all or most of whose hospitals or establishments and facilities are situated in the LA area;
- The Connexions service operating in any part of the area of the LA;
- CAFCASS (Children and Family Courts Advisory and Support Service);
- The Governor or Director of any Secure Training Centre in the area of the LA; and
- The Governor or Director of any prison in the LA area that ordinarily detains children.
5. THE POLICE

5.1 THE ROLE OF THE POLICE IN RELATION TO SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN

The primary duties of the police service are the protection of life and property, the preservation of the Queen's peace, and the prevention and detection of criminal offences.

The police service has a number of key contributions to make in safeguarding and promoting the welfare of children. Whilst their principal role is the investigation of child abuse allegations, they also have a key role in preventing crime against or involving children and minimising the potential for children to become victims.

The police service contribution should also include:

- identifying vulnerable children in domestic violence cases;
- using police powers to take children into protective custody when appropriate;
- protecting the needs of children as witnesses or victims;
- working with partner agencies in the criminal justice system dealing with youth offenders to divert children away from crime; and
- working with partner agencies to educate children and young persons on issues such as substance misuse and the prevention of crime.

In dealing with these issues, the aim of the police service is to protect the lives of children and ensure that the welfare of the child is paramount.

The police service also has a significant contribution to make to safeguarding and promoting the welfare of children through:

- implementation of policy and dissemination of good practice which recognises the welfare of children as the prime consideration, within the requirements of the criminal justice system;
- recognition that responsibility lies with all police officers and police staff and not just specialist child abuse investigation units within the force;
- prioritising the investigation of crime and the protection of children from harm; and
- the commitment towards working with other agencies to ensure that the interests of the child are best served by effective partnership working between agencies.

5.2 MAKING ARRANGEMENTS TO SAFEGUARD AND PROMOTE CHILDREN'S WELFARE IN THE POLICE SERVICE

As mentioned above, the police service has a responsibility to promote and safeguard the welfare of children by preventing offending against them and ensuring that investigations into any such offences are conducted in the best interests of the child and the criminal justice system. Moreover, section 29 of the Police Act 1996 (as amended by section 83 of the Police Reform Act 2002) requires that every member of a police force maintained for a police area attests to ensure that fundamental human rights are upheld with fairness, integrity, diligence and impartiality according to law. These responsibilities are carried out in compliance with domestic legislation and international treaties including the United Nations Convention on the Rights of the Child and the European Convention on Human Rights to protect the individual’s right to life and to protect individuals from inhuman and degrading treatment.
Section 11 of the Children Act 2004 supports these responsibilities by placing the police under a duty to make arrangements to ensure that they exercise their functions having regard to the need to safeguard and promote the welfare of children. This does not change the functions placed on the police by existing statute. Their focus should still rest on meeting the objectives of the criminal justice system. However, the police service should make the following arrangements, under section 11 of the Children Act 2004, to ensure it takes account of the need to safeguard and promote the welfare of children in meeting these objectives.

5.3 SENIOR MANAGEMENT COMMITMENT AND ACCOUNTABILITY

Each police force should establish senior management commitment to safeguarding and promoting children’s welfare by:

- having an identified an Association of Chief Police Officers’ (ACPO) lead on children issues in each force;
- having a strong commitment to the importance of these issues through clear policies and procedures with appropriate links to partner agencies; and
- ensuring that suitable training and/or awareness are in place to promote the welfare of children.

In addition, forces should continue to develop their action plans on implementing the recommendations in the Victoria Climbié Inquiry Report to ensure that the mistakes made in the Victoria Climbié case will not be repeated.

Forces, in satisfying themselves of the effectiveness of their progress, will wish to have regard to the 2005 HMIC baseline assessment criteria, in particular 3C11 – 3C18, 1C06 and 2A05 – 2A07.

5.4 STATEMENTS OF RESPONSIBILITY

Each police force should ensure that police officers and police staff at all levels are aware of their statutory requirements to protect and safeguard the welfare of children.

To achieve this, forces will need to demonstrate a proactive approach to ensure all staff are aware of their responsibilities.

5.5 SERVICE DEVELOPMENT

Police authorities have an overarching role to secure the maintenance of an effective and efficient police force in their area. They also have responsibility for the publication of the local policing plan, drawing from the National Policing Plan.

In developing their local policing and departmental plans all forces and authorities should:

- give due consideration to the importance to local communities of child protection issues;
- reflect the recommendations of the Victoria Climbié Inquiry Report and the Every Child Matters: Change for Children Programme; and
- ensure that they take account of the need to safeguard and promote the welfare of children in determining criminal justice priorities.

Under section 96 of the Police Act 1996 Police Authorities have a statutory duty to consult communities on matters concerning the policing of the area.
5.6 TRAINING

Police forces should ensure that appropriate training, processes and procedures are in place to enable all staff to be best able to support the aims and objectives of the Children Act 2004.

5.7 SAFER RECRUITMENT, VETTING AND COMPLAINTS PROCEDURES

All police officers and police staff must be subject to a full security check before taking up their post. This ensures no person with a previous conviction, in this context, specifically anything which compromises the welfare of children, is employed by the police. The Independent Police Complaints Commission should properly examine all complaints. The Safeguarding Vulnerable Groups Act 2006 will establish a new vetting and barring scheme from 2008 for those who work with children and vulnerable adults. This will include all those engaged in specific activities in relation to children. The new scheme will supersede the POCA List. Further guidance will follow on roles and responsibilities under the new scheme.

5.8 WORK WITH INDIVIDUAL CHILDREN

Children under the age of 17 suspected of having committed an offence are recognised as vulnerable. The Police and Criminal Evidence Act 1984 and the accompanying Code of Practice (reviewed annually) place a statutory responsibility on the police to ensure additional considerations are given to the welfare and interests of a juvenile whilst dealing with them in the context of the needs of the criminal justice system. A person aged under 17 is required to be afforded special care including the provision of an appropriate adult whilst in custody.

The Association of Chief Police Officers, in particular, is working towards the introduction of minimum standards in publishing a manual of guidance on the investigation of child abuse allegations and, once available, these should be implemented in all forces.

5.9 INTER-AGENCY WORKING

In support of effective interagency working, police forces should participate in Local Safeguarding Children Boards (LSCBs) in accordance with Working Together to Safeguard Children (2006). LSCBs should have in place local procedures governing inter-agency activity.

Local protocols should be consistent with Statutory guidance on interagency co-operation to improve the wellbeing of children: Children’s Trusts (2005) and Working Together to Safeguard Children (2006).

5.10 INFORMATION SHARING

Police forces should make best use of information exchange between agencies.

The National Policing Plan, the recent police reform White Paper and the Home Office Publication Firm Foundations all make clear the need to co-ordinate the various planning documents and cycles.

The Bichard Inquiry recommended that a Code of Practice on Information Management should be developed to assist the police service in adopting a consistent approach to recording, reviewing and sharing information.

A draft of the Code has now been produced for consultation. It will be underpinned by detailed operational guidance in specific areas, which will include information sharing with other agencies.

In addition, the IMPACT IT programme is being developed to ensure access by police forces and vetting authorities to information and intelligence held by other forces.
6. THE PROBATION SERVICE

6.1 THE ROLE OF PROBATION BOARDS IN RELATION TO SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN

The key functions of the National Probation Service are to protect the public and to reduce re-offending. These functions encompass: the proper punishment of adult offenders in the community; ensuring offenders’ awareness of the effects of crime on the victims of crime and the public; and the rehabilitation of offenders. In carrying out these duties, the National Probation Service must act in accordance with the Criminal Justice and Court Services Act 2000 and Criminal Justice Act 2003 and the Rules made under them and with the policy decisions and directives issued by the Secretary of State for the Home Department. The section 11 duty is not intended to compromise Probation Boards’ ability to execute these functions, but will provide a specific direction to ensure probation practice operates with a wider vision to consider where practice can be improved and developed to safeguard and promote the welfare of children.

The Probation Service understands its contribution to safeguarding and promoting the welfare of children, in practice, to be in the:

- management of adult offenders in ways that will reduce the risk of harm they may present to children through skilful assessment, the delivery of well targeted and quality interventions and risk management planning;
- delivery of services to adult offenders, who may be parents or carers, that addresses the factors that influenced their reasons to offend, for example, poor thinking skills, poor moral reasoning, drug/alcohol dependency (relating to the two domains in the Assessment Framework of parenting capacity and family and environmental factors);
- recognition of factors which pose a risk to children's safety and welfare, and the implementation of agency procedures to protect children from harm (through appropriate information sharing and collaborative multi-agency risk management planning, for example, Multi Agency Public Protection Arrangements, contribution to Safeguarding Children Procedures and through Domestic Violence forums);
- seconding staff to work in youth offending teams;
- providing a service to child victims of serious sexual or violent offences;
- working with the female victims of male perpetrators of domestic abuse participating in accredited domestic abuse programmes in the community and in prison. In practice, this will mean having regard to the safety needs of any dependent children of the family.

6.2 MAKING ARRANGEMENTS TO SAFEGUARD AND PROMOTE CHILDREN’S WELFARE IN THE PROBATION SERVICE

The National Probation Service understands it has an important role to play working with adult offenders who may pose a direct risk of harm to children and their carers.

The development of policies and practice guidance will be led by an assessment of risk of harm an offender presents to a child, the public, victims, self and staff. Plans will then be made to manage and reduce the risk. In addition, interventions should be planned to consider how it might contribute to an improvement in parenting and carer skills for offenders with responsibilities for children.

The National Probation Service is committed to working in partnership for change. This will develop under the umbrella of the National Offender Management Service for an end-to-end management of all offenders, whether they are serving sentences in prison, the community or both.
The Directorate of Probation will provide specific strategy to Probation Areas to develop policy and guidance which supports the implementation of the Children Act 2004 and develop a process to identify and share good practice.

6.3 SENIOR MANAGEMENT COMMITMENT

National Probation Service Chief Officers and Probation Boards are committed to safeguarding and promoting the welfare of children. Within each Probation Area there should be a Chief Officer (or delegated Assistant Chief Officer), accountable to the Probation Boards, with responsibility for safeguarding and promoting the welfare of children and providing leadership for good practice. The Chief Officer should be involved in developing local strategies and practice guidance for adult offenders and also victims of serious crime which incorporate the responsibility to safeguard and promote the welfare of children. He/she will be responsible for the implementation of such strategies and guidance. The Chief Officer (or delegated Assistant Chief Officer) will work with the Local Safeguarding Children Board and children’s trusts where appropriate, to agree what action should be taken to ensure that every child has the opportunity to fulfill their potential and to minimise the risks of poor outcomes for children and young people, and the part that the Probation Service can play to lead to improved outcomes.

6.4 STATEMENT OF RESPONSIBILITY

The Directorate of Probation has developed a national strategy on safeguarding and promoting the welfare of children and ensure the engagement of Probation Boards as a relevant member of the LSCBs and children’s trusts where appropriate. Within this context, the Chief Officer of each Probation Board should be responsible for drawing up and implementing local policy and practice guidance that should set out staff’s responsibilities in relation to safeguarding and promoting the welfare of children.

6.5 A CLEAR LINE OF ACCOUNTABILITY WITHIN THE ORGANISATION FOR WORK ON SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN

Probation Boards, through Chief Officers are responsible for the day-to-day management of Probation Areas and staff. The Director of Probation, Chief Officers and Probation Board Chairs are accountable to the Secretary of State for the Home Department through the Chief Executive of the National Offender Management Service.

Probation Boards should ensure that local area staff who work with offenders:

- are familiar with guidance on the recognition of children in need, particularly those who have been abused or neglected;
- know what to do if they have concerns about the welfare of children, aware of the Assessment Framework and know how to refer a child about whom they have concerns to the LA children’s social care for their locality; and
- recognise the role they can play in working with offenders that can improve their skills as parents and carers as well as reduce the likelihood of re-offending.

6.6 TRAINING

Probation Boards should provide training on safeguarding and promoting the welfare of children for all staff working or in contact with children and their families.

The Area Probation Boards will ensure their Probation Area is represented as a relevant partner on the Local Safeguarding Children Board and children’s trusts where appropriate, and that probation practitioner staff take part in interagency training and are familiar with the Common Assessment Framework, procedures for referral where there are concerns about a child’s safety or welfare and their role in safeguarding and promoting the welfare of children, in addition to local agency training.
6.7 SAFER RECRUITMENT, VETTING AND COMPLAINTS PROCEDURES

Probation Boards should follow the procedures and protocols for the vetting of staff set out in Probation Circular 69/2003. The Probation Circular explicitly states that part of the purpose of vetting staff working within the National Probation Service is to “protect children and other vulnerable people to whom NPS staff are delivering services”. The Safeguarding Vulnerable Groups Act 2006 will establish a new vetting and barring scheme from 2008 for those who work with children and vulnerable adults. This will include all those engaged in specific activities in relation to children. The new scheme will supersede the POCA List. Further guidance will follow on roles and responsibilities under the new scheme.


6.8 EFFECTIVE INTER-AGENCY WORKING TO SAFEGUARD AND PROMOTE THE WELFARE OF CHILDREN

Staff within the National Probation Service should work with staff from other agencies taking into account Working Together to Safeguard Children (2006), the Framework for the Assessment of Children in Need and their Families (2000), and this guidance.

Probation staff will ensure that where an adult offender is assessed as presenting a risk of serious harm to children through the Offender Assessment System (OASys) the risk management plan and supervision plan will contain a specific objective to outline the strategy and intervention planned to manage and reduce the risk of harm, and such cases will receive regular management oversight. Probation staff will work within agency protocols to safely and appropriately share information across key agencies that will promote the safety and welfare of the child.

Probation staff, when preparing a sentence plan, will need to consider how planned interventions might impact on parental responsibilities and whether the planned interventions could contribute to improved outcomes for children known to be in an existing relationship with the offender.

The National Probation Service supports the use of the Common Assessment Framework. Probation Boards would be responsible for ensuring local implementation of awareness training, to ensure probation staff understand how they might appropriately contribute. Probation staff would not be responsible for making an assessment of a child (under aged 18), except where that member of staff is seconded to the Youth Offending Team.

6.9 WORK WITH INDIVIDUAL CHILDREN

The National Probation Service is responsible for the assessment of risk that an offender poses and the planning and delivery of the interventions required to meet their needs. The National Probation Service works with adult offenders who pose a risk of harm to children and young people. Where an offender poses a risk to children the National Probation Service will continue to work with other agencies through the MAPPA (Multi Agency Public Protection Arrangements) and LSCBs, to protect the individual child and safeguard and promote the welfare of all children in the area.

While the National Probation Service is primarily responsible for working with adult offenders it will need to give careful consideration to provision and services that may also involve children, such as reception areas, the action of staff when making home visits, the potential for working with child victims through the victim contact service or the planning and delivery of offender programmes that might demand specific attention to the safeguarding of children such as working with domestic violence or sex offender perpetrators. Probation works directly with 16-17 year olds in delivering unpaid work requirements. Contact is also made with children who have been victims of sexual or violent offences, where the offender is sentenced to 12 months or more in custody.
6.10 INFORMATION SHARING

The Criminal Justice Act 2003 extended the responsibilities of consultation and cooperation to other partners to manage and reduce dangerousness of offenders assessed as presenting high or very high risk of harm to the community. Each Probation Board has a duty to share information and should continue to share information with other agencies in order to promote and safeguard the welfare of children. The MAPPA Guidance (PC 52/2004) outlines the duty to share information across agencies to improve public protection. (see Multi Agency Public Protection Arrangements (MAPPA) Guidance http://www.probation.homeoffice.gov.uk/files/pdf/PC54.pdf).

Where a member of staff becomes aware of a potential risk of harm to a child through their supervision of an adult offender they will ensure that the child’s welfare is safeguarded and promoted through the sharing of information with the Children’s Services Authority. Chief Officers of Probation will ensure their probation area has in place a protocol to support the sharing of information with the LSCB members to support the safeguarding of children.

The Chief Officer will ensure that Probation Area policy clearly explains who should be contacted and the required level of management oversight where a child has been assessed at risk of harm. Probation staff will ensure that where an adult offender is assessed as presenting a high risk of harm to children through OASys (Offender Assessment System) that the risk management plan and supervision plan will contain an explicit objective to outline the strategy and intervention planned to manage and reduce the risk of harm, and such cases will receive regular management oversight.

7. YOUTH OFFENDING TEAMS

7.1 THE CONTRIBUTION OF YOTS TO SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN

The Children Act 2004 requires that Yots make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children.

Safeguarding and promoting the welfare of children and young people is an essential prerequisite for work of Yots to reduce the likelihood of offending and re-offending.

All those working within Yots must understand their responsibility to safeguard and promote the welfare of children. In practice, these responsibilities are discharged through the adherence to National Standards for Youth Justice on assessments and intervention, a range of YJB guidance including the Key Elements of Effective Practice guidance issued by the Youth Justice Board (YJB) and the Working Together to Safeguard Children guidance (2006).

Children and young people with whom the Yot works must be carefully assessed. Asset is the assessment tool used by Yots for children and young people who have already offended and ONSET is used for children and young people at risk of offending to assess the need for targeted prevention programmes. This assessment process examines a range of factors:

- Living arrangements;
- Family and personal relationships;
- Education, training and employment;
- Neighbourhood and community factors;
- Lifestyle factors;
- Substance misuse;
- Health (physical, emotional and mental);
- Vulnerability (risk to young person from self or others)
Asset and ONSET are designed to assess offending-related risk and needs and also welfare related needs. Where the young person may have needs that are outside the scope of the Yot, the Common Assessment Framework can be used to build on Asset or ONSET in order to determine and engage the relevant partner agencies.

An intervention plan will be designed based on the information from the assessment to address difficulties and deficits, building on identified strengths, in consultation with the young person and their family. It will be implemented with a view to promoting the welfare of the young person, managing the risk the young person presents and reducing their likelihood of re-offending, as set out in the National Standards for Youth Justice 2004, guidance on the Asset assessment tool and the YJBs Key Elements of Effective Practice and Managing Risk in the Community. The interventions and their effect on the life of the young person should be carefully monitored and evaluated. Any intervention should take into account any existing plans including a Child Protection Plan.

The Government has published a new Common Assessment Framework (2006) providing a national common process for early assessment to identify more accurately and speedily the additional needs of children and young people. Asset and ONSET continue to be used as specialist assessment tools in the youth justice system and guidance has been issued by the YJB in consultation with DfES on their 'fit' with CAF (see [http://www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=314&eP=](http://www.yjb.gov.uk/Publications/Scripts/prodView.asp?idproduct=314&eP=)).

The assessment will include whether there is a risk of serious harm to the young person concerned or to others. Referrals should be made where appropriate to children’s social care according to LSCB procedures and/or local Multi-Agency Public Protection Arrangements (MAPPA). The existence of children’s social care staff within the Yot will facilitate an effective referral, section 47 enquiries, and transmission of relevant information.

The Yot will participate fully in any subsequent section 47 enquiries and planning, as required by children’s social care and the Police and in accordance with local LSCB procedures.

As well as the development of intervention plans in the community, Yots are responsible for the overall sentence planning process for young people going through custody, ensuring that co-ordinated plans- which address all needs and in particular resettlement needs – are developed from the outset of the custodial period, according to national standards.

### 7.2 SENIOR MANAGEMENT COMMITMENT AND IDENTIFYING CLEAR LINES OF ACCOUNTABILITY

The Yot steering group/management board is responsible for overseeing the work of the Yot and ensuring that arrangements are in place for safeguarding and promoting welfare of children and young people. The Yot steering group/management board will facilitate a strategic approach to Yot participation in safeguarding and welfare arrangements between agencies.

The YJB guidance Sustaining the Success (2004) sets out the arrangements for developing the work of Yots and the Yot steering group/management board and includes a framework for establishing protocols between Yots and other children’s services. The framework includes clarifying responsibilities for responding to welfare concerns and meeting the needs of children and young people in the youth justice system.

The Yot manager/head of service, responsible for the strategic and operational functions of the team, should ensure that effective policies and procedures are in place that address safeguarding and the promotion of welfare.

The Yot manager/head of service should ensure that there are clear lines of accountability within the Yots in relation to safeguarding and promoting the welfare of children. All managers need to be made aware of the importance of this area of work in carrying out their functions.
7.3 STATEMENT EXPLAINING RESPONSIBILITIES FOR SAFEGUARDING AND PROMOTING WELFARE

All staff in the Yot should be clear about their responsibilities for safeguarding and promoting the welfare of children. There needs to be effective communication arrangements that ensure that all staff are aware of the priority given to safeguarding and promoting welfare and their lines of accountability.

7.4 STAFF TRAINING ON SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN

The Yot partnership should ensure that all staff participate in a programme of training that ensures they understand both their role and responsibilities and those of other professionals and organisations in relation to safeguarding and promoting children’s welfare. Yot staff should be trained and made aware of safeguarding children procedures. YOT staff must comply with local arrangements and practice guidance issued by the Youth Justice Board.

7.5 SAFER RECRUITMENT AND VETTING PROCEDURES

Staff recruitment needs to be in line with the partner agencies’ requirements in relation to vetting and CRB checks. Procedures will need to cover employed (both seconded and directly employed), voluntary and student placements within the Yot. The Safeguarding Vulnerable Groups Act 2006 will establish a new vetting and barring scheme from 2008 for those who work with children and vulnerable adults. This will include all those engaged in specific activities in relation to children. The new scheme will supersede current provision including the Protection of Children Act list and List 99. Further guidance will follow on roles and responsibilities under the new scheme.

7.6 EFFECTIVE INTER-AGENCY WORKING TO SAFEGUARD AND PROMOTE THE WELFARE OF CHILDREN

Yots should participate in local arrangements for inter-agency working. This includes participation in local LSCBs as well as local Multi-Agency Public Protection Arrangements (MAPPA). Yots will be required to co-operate with the LSCB in the event of a serious case review following the death or serious injury of a young person under the supervision of the Yot. This includes the death of a child/young person in custody where the Yot will also be required to cooperate with the Prisons and Probation Ombudsman in the event of the death occurring either in a Young Offender Institution (YOI) or Secure Training Centre (STC) Yots also are required to co-operate in local arrangements to improve the wellbeing of children as set out in section 10 of the Children Act 2004.

7.7 SHARING INFORMATION AND USING COMMON PROCESSES

Yots should act in accordance with local arrangements for the sharing of information between key agencies, including raising concerns about safeguarding and welfare to appropriate agencies and will contribute to common processes as appropriate.

8. PRISONS

8.1 THE ROLE OF PRISONS IN RELATION TO SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN

Prison Governors (and Directors in the contracted estate) have two primary duties. The first is to execute the warrant of the court by keeping a prisoner in custody. The second is to contribute to the principal aim of the youth justice system, which is “to prevent offending by children and young people” (section 37 of the Crime & Disorder Act 1998). In carrying out those primary duties, Governors/Directors must act in accordance with the Prisons Act 1952 and the Rules made under it and have regard to policy decisions and directives issued by the Secretary of State for the Home Department.
Within this legislative and policy framework, Section 11 of the Children Act 2004 gives Prison Governors/ Directors a legal responsibility to make arrangements to ensure that they exercise their functions having regard to the need to safeguard and promote the welfare of the children in their custody and other children with whom they have contact. This duty is not intended to override or interfere with Governors'/Directors’ execution of their primary duties as set out above. The duty does not apply to adult prisoners in their capacity as parents or carers, or to decisions about the placement or transfer of adult prisoners.

Governors/Directors understand their contribution to safeguarding and promoting the welfare of children, in practice, to be in the development and implementation of policies and arrangements designed to:

- protect the children committed to their custody from significant harm, including self-harm or suicide, harm from other children, (bullying and other potential forms of abuse which may occur in prison), and harm from staff and other adults, e.g. visitors;
- safeguard the children who are not in the Service’s custody but with whom the Service has routine contact – when in contact with those children, e.g. children visiting the establishment, and prisoners’ children who are resident in Mother and Baby Units; and
- minimise the risks of harm to children in the community by prisoners who have been identified as presenting such a risk, which could occur during any form of contact with a child, including correspondence, telephone and visits.

The Prison Service and its Director General are accountable to the Secretary of State for the Home Department through the Chief Executive of the National Offender Management Service. Prison Governors are accountable to the Director General through Prison Service Area Managers and operational Directors, whilst Directors of contracted prisons are accountable to the Assistant Director of the Office for Contracted Prisons.

The Youth Justice Board for England and Wales (YJB) has statutory responsibility for the commissioning and purchasing of all secure accommodation for children and for setting standards for the delivery of those services. As part of this estate, there is a separate prisons estate for 15-17 year olds and/or those sentenced to the Detention and Training Order (“the juvenile estate”). The Prison Service is one of the YJB’s major providers of secure accommodation for children and young people. There is a partnership agreement between the two organisations, as well as a service level agreement.

### 8.2 MAKING ARRANGEMENTS TO SAFEGUARD AND PROMOTE WELFARE IN THE JUVENILE ESTATE

Policies for safeguarding and promoting the welfare of children held in custody in the juvenile estate were first introduced when the estate was created in April 2000. Those policies, which were based on the principles enshrined in the Children Act 1989, have since been developed in the light of the High Court judgment, delivered in The Howard League for Penal Reform -v- the Secretary of State for the Home Department (November 2002). Mr Justice Munby ruled that the 1989 Act applies to children in prison establishments, and, in particular the responsibilities of local authority social services under sections 17 and 47 of the Children Act 1989, subject to the necessary requirements of imprisonment. The judgment also confirmed that prisons have a legal obligation to safeguard the wellbeing of children in their care by virtue of section 6(1) of the Human Rights Act and Article 8 of the European Convention on Human Rights.

In order to meet the duty in section 11 of the Children Act 2004, Prison Governors/Directors should have regard to the policies, agreed by the Prison Service and the YJB, for safeguarding and promoting the welfare of children held in custody in the juvenile estate. These are published in Prison Order 4950 (“Juvenile Regimes”). They require that the following arrangements are in place in each juvenile establishment:
8.3 SENIOR MANAGEMENT COMMITMENT AND ACCOUNTABILITY

- a senior member of staff ("child protection co-ordinator" or "safeguards manager") who is responsible to the Governor/Director for child protection and safeguarding matters;

- a child protection committee whose membership includes a senior manager as the chair, representatives of multi-disciplinary staff and a representative of the LSCB and whose functions include agreeing the local child protection and safeguarding policy, monitoring its operation, and keeping it under regular review.

8.4 CLEAR STATEMENTS OF RESPONSIBILITY

Local, establishment-specific child protection and safeguarding policy, agreed with the local LSCB, which has regard to the Prison Service’s/YJB’s overarching policy and which includes procedures for dealing with incidents or disclosures of child abuse or neglect occurring before or during custody;

- suicide and self-harm prevention and anti-bullying strategies, approved by the Area Manager/Office for Contracted Prisons;

- procedures for dealing proactively, rigorously, fairly and promptly with complaints and formal requests, complemented by an advocacy service to support complainants;

8.5 TRAINING

- Specialised training in safeguarding children procedures for all staff working with children.

8.6 SAFER RECRUITMENT

- Selection, recruitment and vetting procedures ensure that new staff work safely and competently with children. The Safeguarding Vulnerable Groups Act 2006 will establish a new vetting and barring scheme from 2008 for those who work with children and vulnerable adults. This will include all those engaged in specific activities in relation to children. The new scheme will supersede current provision including the Protection of Children list. Further guidance will follow on roles and responsibilities under the new scheme.

8.7 EFFECTIVE INTER-AGENCY WORKING

- Action to manage and develop effective working partnerships with other agencies, including voluntary and community organisations, that can strengthen the support provided to the young person and their family during custody and on release.

8.8 WORK WITH INDIVIDUAL CHILDREN

- an initial assessment on reception into custody to identify the needs, abilities and aptitudes of the young person and the formulation of a sentence plan (including an individual learning plan) designed to address them, followed by regular sentence plan reviews;

- provision of education, training and personal development in line with the YJB’s Offenders’ Learning Journey (http://olass.lsc.gov.uk);

- maintenance of permanent, private and secure records on the young person, containing all relevant personal information, contact numbers and details of all relevant occurrences;

- action to encourage the young person to take an active role in the preparation and subsequent reviews of their sentence plan, so that they are able to contribute to, and influence, what happens to them in custody and following release;
o action to promote the positive contact and involvement of the young person’s family, particularly in the sentence planning process.

Moreover, to support the exercise of the Section 11 duty:

o the service level agreements between the Prison Service and the Youth Justice Board should take account of the duty to safeguard and promote the welfare of children and of any changes in the level of service needed to achieve this;

o Governors/Directors have a duty to share information, where necessary, with other statutory agencies, including but not limited to: Youth Offending Teams; Local Safeguarding Children Boards (LSCBs); children’s social care in the LA; the police; and other relevant agencies. Governors/Directors should ensure that the information is shared appropriately with those agencies, and with due regard to the need to preserve the young person’s right to confidentiality. Governors/Directors have a duty to put in place, and to ensure that staff are aware of, and follow, procedures for ensuring that relevant information is passed to those other agencies where necessary;

o all juvenile establishments should consider how their IT systems could be used to enhance the effectiveness of their work with children; and

o While a child is in custody, and subsequently under supervision within the community, the lead responsibility for working with parents and family lies with the relevant Youth Offending Team (Yot). Staff in the juvenile estate work in close partnership with Yots during the custodial period and will support Yots in this crucial role as far as they are able.

The management of children and young people held in the juvenile estate, including compliance with the arrangements above, should be supervised and monitored through the normal line management structures and through YJB monitoring arrangements. Each juvenile establishment is also subject to regular inspection by HM Chief Inspector of Prisons.

8.9 MAKING ARRANGEMENTS TO SAFEGUARD AND PROMOTE WELFARE IN ALL PRISONS

Governors/Directors of women’s establishments which have Mother and Baby Units should meet their responsibilities under Section 11 of the Children Act 2004 by having regard to Prison Service Order 4801. This means they need to ensure that staff working on the units are prioritised for child protection training, and that there must at all times be a member of staff on duty in the unit who is proficient in child protection, health and safety and first aid/child resuscitation. Each baby must have a child care plan setting out how the best interests of the child will be maintained and promoted during the child’s residence on the unit.

Governors/Directors of all prison establishments are required by the Service’s National Security Framework to have in place arrangements for the protection of visitors, including children. They are also required by Prison Service policy, set out in the Public Protection Manual, to implement measures to minimise the risks of harm to children by prisoners who have been identified as presenting a risk of harm to children that could take place during any form of contact, including correspondence, telephone and visits.

Governors/Directors are committed to ensuring that the diversity of prisoners and staff – including matters such as race, religion, gender and disability – is respected and that due regard is paid to it in policies and practices. Diversity training is mandatory for staff in all establishments. Foreign language translations of important information are available for prisoners whose first language is not English, and there is provision for interpreters to be used where necessary. Care is taken to meet the needs of disabled prisoners and staff in accordance with the guidance and instructions set out in Prison Service Order 2855.
9. SECURE TRAINING CENTRES

9.1 MAKING ARRANGEMENTS TO SAFEGUARD AND PROMOTE WELFARE IN SECURE TRAINING CENTRES

Secure Training Centres are provided under the Criminal Justice and Public Order Act 1994. Their primary function is to accommodate young persons sent there by the courts in a safe environment within secure conditions in a manner that maintains high standards of care, control, good order and discipline and protecting vulnerable and disruptive young persons from themselves and each other.

Under Section 11 of the Children Act 2004, the Director or Governor has a duty to make arrangements for safeguarding and promoting the welfare of young persons placed in the Centre. In order to meet this duty, Directors and Governors should take the following action:

9.2 SENIOR MANAGEMENT COMMITMENT

Directors and Governors of Secure Training Centres should publish a clear, unambiguous statement detailing their commitment to safeguarding children and promoting their welfare.

9.3 STATEMENTS OF RESPONSIBILITIES

Directors and Governors should ensure that effective policies and procedures are in place that explains staff responsibilities in relation to safeguarding, child protection and welfare promotion.

Directors and Governors should nominate an individual to take the lead on safeguarding and promoting the welfare of children.

Directors and Governors should ensure that there is a clear and established complaints procedure with which all staff are made familiar, and that advocacy and independent persons’ services are not hindered in carrying out their work. They should also establish procedures for consulting with children and ensuring that their views are taken into account, as appropriate.

9.4 SAFER RECRUITMENT

Directors and Governors should ensure that all staff are subjected to enhanced vetting through the Criminal Records Bureau. They should also ensure that employment and personal references are always taken up, and applicants for posts working with children are able to account for gaps in their employment history. The Safeguarding Vulnerable Groups Act 2006 will establish a new vetting and barring scheme from 2008 for those who work with children and vulnerable adults. This will include all those engaged in specific activities in relation to children. The new scheme will supersede the current provision including the Protection of Children Act list. Further guidance will follow on roles and responsibilities under the new scheme.

9.5 STAFF TRAINING

Directors and Governors should ensure all staff are trained in safeguarding children procedures and are able to recognise and assess the signs of children and young persons facing difficulties or abuse. Staff should also be aware of the procedures for assessing the needs of children and making referrals to the local authority.

9.6 EFFECTIVE INTER-Agency WORKING

Directors and Governors should ensure that appropriate links are made with their Local Safeguarding Children Board (LSCB) and the relevant Director of Children’s Services or his or her representative. Directors and Governors must also facilitate access to Local Authority social workers to undertake their duties under Children Act 1989.

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9.7 WORK WITH INDIVIDUAL CHILDREN

Formal assessment and planning will take place for each child with individualised plans made that address the welfare and safeguarding needs of each child. The Director or Governor should ensure that the individual needs of each child are identified and taken into account when plans are made for them.

9.8 INFORMATION SHARING

Directors and Governors have a duty to work with other statutory agencies, including but not limited to; Youth Offending Teams; Local Safeguarding Children Boards (LSCBs); social care; the police and other relevant agencies. Directors and Governors should ensure that they share information appropriately with those agencies, and with due regard to confidentiality. Directors and Governors have a duty to put in place, and to ensure that staff are aware of and follow, procedures for ensuring that relevant information is passed to those other agencies where necessary.

10. DOMESTIC VIOLENCE, CRIME AND VICTIMS ACT 2004

The new offence and procedural changes in section 5 of the Domestic Violence, Crime and Victims Act 2004 forms a package of measures which are intended to solve the problem that arises when a child (23) or vulnerable adult suffers an unlawful death and it can be proved that one or more of a small group of people living in the same household as the victim caused the death, but not which of them. In such circumstances there may be no case to answer against any member of the household for murder/manslaughter. Until now this loophole in the law has enabled those co-accused of the death of a child or vulnerable adult to escape justice by remaining silent or by blaming each other.

It is also a serious stand-alone offence which puts a new legal responsibility on adult household members who could be charged with the offence even when, for example, there is no charge of murder/manslaughter or where evidence suggests that the defendant could not themselves have committed the criminal act which killed the victim.

The offence provides that members of a household who have frequent contact with a child or vulnerable adult will be guilty if they caused the death of that child or vulnerable adult or three conditions are met:

- they were aware or ought to have been aware that the victim was at significant risk of serious physical harm from a member of the household; and
- they failed to take reasonable steps to prevent that person coming to harm; and
- the person subsequently died from the unlawful act of a member of the household in circumstances that the defendant foresaw or ought to have foreseen.

The offence may therefore be applicable in two different circumstances – the defendant may have caused or allowed the death of a child or vulnerable adult. The prosecution do not have to prove which of the two circumstances apply to the defendant. The maximum penalty is 14 years.

(23)For the purposes of Section 5 of this Act, a child is defined as someone under the age of 16.